SENATE — *Wednesday, June 3, 1981*

(Legislative day of Monday, June 1, 1981)

The Senate met at 11:45 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

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

Father in heaven, it is so easy for us to take life for granted. So often we have to lose a good thing before we appreciate it. We take health for granted until we get sick. We take family for granted until we are separated. We take friends for granted until we are alienated. We take privilege for granted until it is removed. We take for granted the faithful service of those who work with us until they leave us. We take freedom for granted until we are bound.

Forgive us, dear Lord, for this sin of presumption. Help us to be grateful for all the blessings and benefits which Thou dost bestow so benevolently upon us. Help us to love Thee and each other. Receive our gratitude and praise. We pray in Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

THE JOURNAL

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

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

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, are there special orders for the recognition of Senators this morning?

The PRESIDENT pro tempore. There are two special orders: One for the Senator from Wyoming (Mr. SIMPSON), for 15 minutes; the other for the Senator from West Virginia (Mr. ROBERT C. BYRD), for 15 minutes.

Mr. BAKER. I thank the Chair. I am advised that the distinguished Senator from West Virginia, the minority leader, has no need for his time under the special order, and I ask unanimous consent that the order be vitiated.

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

ORDER FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that at the conclusion of the time allocated to the two leaders under the standing order and the execution of the special order, there be a period for the transaction of routine morning business, for not longer than 30 minutes, in which Senators may speak for not more than 5 minutes each.

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

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1981

Mr. BAKER. Mr. President, it is the intention of the leadership on this side to ask the Senate to proceed to the consideration of S. 1197, the housing bill, after the conclusion of the time for the transaction of routine morning business.

I have advised the distinguished minority leader of that intention, as well as the distinguished acting minority leader, who is in the Chamber. I will not now make that motion. I will wait until later.

However, so that all Senators may be on notice that that is the principal business to be transacted by the Senate today, I thought I would call that to the attention of all those who may hear this statement.

SENATOR STROM THURMOND—A REAL PRO

Mr. BAKER. Mr. President, I take this opportunity to pay my respects to the distinguished occupant of the chair, the President pro tempore.

What I am about to say is an especially difficult thing to phrase appropriately, but I feel an obligation to say it, and I wish to take this opportunity to say it while the Senator from South Carolina (Mr. THURMOND) is in the chair.

Over the last few weeks, we have gone through one of those periods when I suppose inevitably there is a good faith and conscientious conflict between chairmen and members of two of the committees of the Senate—in this case, the Committee on the Judiciary and the Committee on Commerce, relating to their roles and responsibilities in connection with a communications bill.

It proved impossible to reconcile the jurisdictional conflict in that case.

The last effort in that regard was made in my office to try to negotiate and arbitrate settlement of that dispute, but it failed.

Without any foreknowledge of how the result might finally be, or how the Senate might finally dispose of the issue. I recommended to the distinguished occupant of the chair and the distinguished chairman of the Commerce Committee, Senator PACKWOOD, that the conflict be submitted to the Senate as a whole, as indeed it was on yesterday in the form of a motion by the distinguished chairman of the Judiciary Committee, the Senator from South Carolina, that S. 271, Calendar Order No. 37, be referred temporarily to the Judiciary Committee. That motion did not prevail.

The reason for reviewing these circumstances, Mr. President, is to point out to all of our colleagues that Senator THURMOND is as gracious when he does not succeed as he is when he so more often does succeed.

If I may say so, in the parlance of the legislative arrangements of this city, STROM THURMOND is a real pro. He defends and guards his prerogatives. He discharges his obligations. He is true to his commitments. He more often than not succeeds. He sometimes does not. But he is a pro in either case.

In saying that I mean to pay him a tribute and a compliment of the highest order because I admire and respect that trait and characteristic in our colleagues. No one in this body on either side of the aisle exhibits it to such a degree as does the Senator from South Carolina.

Many have observed and remarked on the fact that the legislative process is necessarily the business of compromise. Sometimes it is not.

Sometimes it is simply bringing an issue to a head and disposing of it one way or the other. An equally important part of the legislative process is to abide by the decision of the Senate without rancor, without resentment, without a diminution of the effectiveness of the party, whether successful or unsuccessful.

So in the conflict on yesterday, as unfortunate as it may have appeared to be and as unsatisfactory as it may have been in its outcome to the Senator from South Carolina, it was extremely valuable in that it once again provided a role model for all of us on how to act as a Senator and how to accept success and how to accept failure.

Mr. President, I wish to note these observations for the record this day and to do so while the distinguished occupant of the Chair is present to hear them.

Mr. President, I have no further need for my time under the standing order and I yield it back.

RECOGNITION OF THE ACTING MINORITY LEADER

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

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

Mr. CHILES. Mr. President, as the acting minority leader I relinquish any time that the minority leader has.

RECOGNITION OF SENATOR SIMPSON

The PRESIDENT pro tempore. The distinguished Senator from Wyoming is recognized for 15 minutes.

SENATOR STROM THURMOND—A TRUE INSPIRATION

Mr. SIMPSON. Mr. President, I just happened to come into the Chamber as I heard the remarks of the majority leader paying tribute to the gentleman who occupies the chair at the present moment. I just wish to add a very real commentary of my own to you, sir, who serves as chairman of the Judiciary Committee, of which I am a member, who assisted me in obtaining membership on that committee, a committee I chaired when I was a member of the Wyoming House of Representatives and thoroughly enjoyed and enjoy now, a man who has taught me much, a man who has been most supportive, most understanding, and that is the Senator from South Carolina.

He has been a true inspiration to all of us, especially we newer Members. You have expressed to me your kindness, your friendship, your skills, and your amazing vitality, and I commend you, sir. It is a distinct pleasure. You make this body a richer place for service. I wanted to share that.

I did not actually reserve that full 15 minutes for that, but I wanted to say that and concur in the remarks of the majority leader.

COST SAVINGS RECOMMENDATIONS BY VETERANS' AFFAIRS COMMITTEE

Mr. SIMPSON. Mr. President, very briefly, and I shall not take the full time allotted, the Veterans' Affairs Committee this morning, the committee which I chair and on which you also serve with such distinction on that committee, ordered reported a resolution of the full committee to the Budget Committee specifying all of the cost savings legislation that the committee recommended in order to meet our reconciliation instructions.

I am sure the majority leader will be pleased at that, as one more committee joins the ranks of having done its duty, the Veterans' Affairs Committee, with regard to the meeting of the reconciliation instructions.

Mr. BAKER. Mr. President, if the Senator will yield to me, I am overjoyed at that prospect. I may say that the early compliance with those instructions for the Veterans' Affairs Committee, under the leadership of the distinguished Senator from Wyoming, is characteristic of the efficiency he brings to this body.

I will examine that work product very carefully and with great assurance that he has done a good job with it.

I thank him.

Mr. SIMPSON. I thank the majority leader.

VETERANS' BENEFITS LEGISLATION

Mr. SIMPSON. Mr. President, I ask unanimous consent that all of the bills that will be introduced in this packet be printed in full at the appropriate place in the RECORD.

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

S. 1311—VETERAN'S INSURANCE AMENDMENTS ACT OF 1981

Mr. SIMPSON. Mr. President, I send to the desk a bill to amend chapter 19 of title 38, United States Code, to permit the unrestricted assignment of a beneficiary's interest in the proceeds of a government life insurance policy in cases involving contested claims, and to amend the amount an attorney may receive for representing a claimant in such cases. I submit this bill at the request of the administration.

The text of the bill follows:

S. 1311

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 "Veterans Insurance Amendments Act of 1981."

TITLE I—ASSIGNMENTS AND ATTORNEYS' FEES

SEC. 101. Section 718 of title 38, United States Code, is amended by:

(1) inserting in subsection (b) after "title," the following: "or contested claims which are resolved in accordance with subsections (c) and (d) of this section,";

(2) inserting "or her" immediately following "his"; and

(3) adding at the end of subsection (b) the following: "(c) In cases involving claims by two or more persons with opposing interests to proceeds of policies maturing on and after the date of enactment of this subsection, resolution of these conflicting claims by assignment of all or any portion of the proceeds to persons outside the class specified in subsection (b) of this section will be permitted. Except in cases where payment under this section will be made in a lump sum, the contingent beneficiary must join any assignment under this subsection. This subsection is not applicable to insurance granted under the provisions of section 722(b) of this title.

"(d) Each claimant to whom insurance proceeds will be paid under an assignment effected pursuant to subsection (c) of this section may assign a portion of the proceeds to be paid to an attorney who represented such claimant in the contested claim. The assignment to an attorney under this subsection may not exceed the lesser of (1) 10 per centum of the proceeds to be paid to that claimant, or (2) the amount of the fee payable pursuant to an agreement between the claimant and attorney. This assignment will be the only fee payable for professional services rendered in connection with the claim for insurance proceeds."

SEC. 102. Section 753 of title 38, United States Code, is amended by:

(1) deleting at the beginning thereof "Any person to whom United States Government Life Insurance shall be payable may assign his";

(2) inserting in lieu thereof the following: "(a) Except in cases involving contested claims to insurance proceeds, which will be governed by subsection (b) of this section, persons to whom United States Government Life Insurance shall be payable may assign their"; and

(3) adding at the end thereof the following:

"(b) In cases involving claims by two or more persons with opposing interests to insurance proceeds maturing on and after the date of enactment of this subsection, resolution of these conflicting claims by assignment of all or any portion of the proceeds to persons outside the class specified in subsection (a) of this section is authorized. Except in cases where payment under this section will be made in lump sum, the contingent beneficiary must join any assignment under this subsection.

"(c) Claimants to whom insurance proceeds will be paid under an assignment effected pursuant to subsection (b) of this section may assign a portion of the proceeds to be paid to an attorney who represented them in the contested claim. The assignment to an attorney under this subsection may not exceed the lesser of (1) 10 per centum of the proceeds to be paid to the claimant, or (2) the amount of the fee payable pursuant to an agreement between the claimants and attorney. This assignment will be the only fee payable for professional services rendered in connection with the claim for insurance proceeds."

SEC. 103. Subsection 784(g) of title 38, United States Code, is amended by:

(1) redesignating this subsection as paragraph 784(g)(1);

(2) deleting "10" and inserting in lieu thereof "25";

(3) deleting "one-tenth" and inserting in lieu thereof "one-fourth";

(4) deleting "his" and inserting in lieu thereof "the veteran's" immediately following "during";

(5) inserting "or her" immediately following "his"; and

(6) adding at the end thereof the following:

"(2) In cases brought under this section where insurance proceeds were paid before the litigation was commenced, and the person or persons to whom prior payment was made are ultimately the successful parties to the litigation, the Court shall determine a reasonable fee, not to exceed 25% of the disputed proceeds, to be paid to the attorneys of such party or parties; this attorney fee shall be incorporated into the judgment or decree of the court. This fee will be paid by the successful party or parties to their attorneys and may be apportioned as determined by the court. No other fee will be payable to any attorney for services in cases to which this subsection pertains."

SEC. 104. Section 3405 of title 38, United States Code, is amended by:

(1) inserting immediately after "3404" the following: ", 718, 753"; and

(2) inserting "or her" immediately following "him".

TITLE II—EFFECTIVE DATE

SEC. 201. The amendments made by this Act shall take effect as of the date of enactment of this Act.

S. 1312—VETERANS' REHABILITATION AND EDUCATION ADJUSTMENT ACT OF 1981

Mr. SIMPSON. Mr. President, I send to the desk a bill to amend title 38, United States Code, to make adjustments and improvements in the vocational rehabilitation and education programs administered by the Veterans' Administration. I submit this bill at the request of the administration.

The text of the bill follows:

S. 1312

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Rehabilitation and Education Adjustment Act of 1981".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. Chapter 3 is amended by—

(1) adding the following subsection at the end of section 242:

"(c) The Administrator may establish Veterans Benefits Counselors at locations such as school campuses to provide assistance regarding benefits under this title to veterans and eligible persons and to conduct outreach as provided for under this subchapter.";

(2) striking out section 243 in its entirety; and

(3) amending the table of sections at the beginning of the chapter to strike out "243. Veterans' representatives.".

SEC. 3. Chapter 31 is amended by—

(a) striking out section 1503 in its entirety; and

(b) amending the table of sections at the beginning of the chapter to strike out "1503. Periods of eligibility.".

SEC. 4. Section 1512 is amended by—

(1) inserting "(a)" before "The"; and

(2) adding at the end thereof a new subsection (b) to read as follows:

"(b) There shall be transferred between the fund and current and future appropriations for readjustment benefits such amounts as the Administrator shall, from time to time, determine are necessary either to meet the requirements of the fund or to assure that fund surplus excess is returned to the appropriation.".

SEC. 5. Section 1652(b) is amended by striking out "402(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2902(a))" and inserting in lieu thereof "sections 7(a), (h), and (i) of the Small Business Act (15 U.S.C. 636 (a), (h) and (i))".

SEC. 6. Section 1673(a) is amended by—

(1) striking out "(1)" before "The";

(2) repealing paragraph (2) in its entirety;

(3) redesignating clauses (A), (B), (C), and (D) as clauses (1), (2), (3), and (4), respectively; and

(4) amending clause (2) (as redesignated by clause (3) of this section), to read as follows:

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;".

SEC. 7. Section 1682 is amended by—

(1) amending clause (1) of subsection (d) to read as follows:

"(d)(1) Notwithstanding the prohibition in section 1671 of this title prohibiting enrollment of an eligible veteran in a program of education in which such veteran has 'already qualified,' an otherwise eligible veteran shall be allowed educational assistance up to six months (or the equivalent thereof in part-time assistance) (A) for the pursuit of refresher training to permit such veteran to update such veteran's knowledge and skills and to be instructed in the technological advances which have occurred in such veteran's field of employment during and since the period of such veteran's active military service; or (B) for the pursuit of continuing education or training required by Federal, State, or local law either to attain professional or vocational relicensure or to retain employment in a particular profession or vocation.";

(2) striking out in clause (2) of subsection (d) "refresher" and inserting in lieu thereof "education or"; and

(3) amending the second sentence of subsection (e) by striking out "at one-half of the full-time institutional rate" and inserting in lieu thereof "in accordance with the rate of pursuit, but in no event more than the less than half-time rate".

SEC. 8. Section 1723(a) is amended by—

(1) striking out "(1) before "The";

(2) repealing paragraph (2) in its entirety;

(3) redesignating clauses (A), (B), (C), and (D) as clauses (1), (2), (3), and (4), respectively; and

(4) amending clause (2) (as redesignated by clause (3) of this section), to read as follows:

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;"

SEC. 9. The last sentence of subsection (d)(1) of section 3503 is amended by—

(1) striking out "or"; and

(2) inserting after "July 4, 1946" a comma and "or (c) any forfeiture of educational benefits under chapters 31, 32, 34 or 35 of this title".

SEC. 10. Section 408 of the Veterans' Education and Employment Assistance Act of 1976 (Public Law 94–502; 90 Stat. 2383) is amended by—

(1) striking out "June 1, 1981" in subsection (a)(1)(A) and inserting in lieu thereof "June 1, 1982";

(2) amending subsection (a)(1)(B) to read as follows: "before the close of the 60-day period after the day on which the President submits to Congress the recommendation described in subparagraph (A), Congress adopts and the President approves a joint resolution disapproving the recommendation or, in the event the President returns the joint resolution to the Congress with his objections, two-thirds of each House of Congress agree to pass and approve the joint resolution.;

(3) striking out "December 31, 1981" each place it appears and inserting in lieu thereof "December 31, 1982"; and

(4) striking out "January 1, 1982" and inserting in lieu thereof "January 1, 1983".

S. 1313—VETERANS' ADMINISTRATION MEDICAL PERSONNEL AMENDMENTS OF 1981

Mr. SIMPSON. Mr. President, I send to the desk a bill to amend title 38, United States Code, to provide additional flexibility within the Veterans' Administration's existing medical personnel management system. I submit this bill at the request of the administration.

The text of the bill follows:

S. 1313

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' Administration Medical Personnel Amendments of 1981".

SEC. 2. Section 4106 of this title is amended by striking out subsection (b) and, in lieu thereof, inserting:

(b) Appointments under section 4104(1) of this title shall be subject to a probationary period of two years. The record of each person serving under such appointment may be reviewed at any time during that period by a board or boards appointed in accordance with regulations issued by the Administrator. Procedures to be followed preceding, during, and subsequent to board reviews shall be established in regulations issued by the Administrator. The Board(s) shall recommend to the Chief Medical Director such action as it deems appropriate and consistent with the ability of the employee, as found by the Board(s), to perform effectively. The Chief Medical Director may accept, reject, or modify the recommendation of the Board(s). If the Chief Medical Director takes action not recommended by the Board(s), a statement of the reasons therefor shall be prepared and made part of the record.

SEC. 3. Section 4110(a) of title 38, United States Code, is amended by striking out the period at the end of the first sentence and adding "who has satisfactorily completed the probationary period required by section 4106 (b) of this title.".

S. 1314—CARE AND TREATMENT OF PATIENTS IN THE VETERANS MEMORIAL MEDICAL CENTER

Mr. SIMPSON. Mr. President, I send to the desk a bill to amend title 38, United States Code, to authorize funds to the Republic of the Philippines to assure the effective care and treatment of U.S. veterans, Commonwealth Army veterans, and new Philippine Scout veterans residing in the Republic of the Philippines. I submit this bill at the request of the administration.

The text of the bill follows:

S. 1314

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That section 624(d) of title 38, United States Code, is amended by striking "and at the same rate as specified in section 632(a)(4) of this title".

SEC. 2. Section 631 of title 38, United States Code, is amended to read as follows:

"§ 631. Assistance to the Republic of the Philippines

"The President is authorized to assist the Republic of the Philippines in fulfilling its responsibility in providing medical care and treatment for Commonwealth Army veterans and new Philippine Scouts in need of such care and treatment for service-connected disabilities and non-service-connected disabilities under certain conditions".

SEC. 3.(a) Section 632 of title 38, United States Code, is amended to read as follows:

"§ 632. Contracts and grants to assure the effective care and treatment of United States veterans in the Veterans Memorial Medical Center

"(a) The President, with the concurrence of the Republic of the Philippines, may authorize the Administrator to enter into contracts with the Veterans Memorial Medical Center, with the approval of the appropriate department of the Government of the Republic of the Philippines, covering the period beginning on October 1, 1981, and ending on September 30, 1986, under which the United States—

"(1) will provide for payments for hospital care and medical services, including nursing home care, in the Veterans Memorial Medical Center as authorized by section 624 of this title, and on the same terms and conditions set forth in such section, to eligible United States veterans at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable; and

"(2) may provide that payments for such hospital care and medical services provided to eligible United States veterans may consist in whole or in part of available medicines, medical supplies, and equipment furnished by the Administrator to the Veterans Memorial Medical Center at valuations therefor as determined by the Administrator, who may furnish through the revolving supply fund, pursuant to section 5021 of this title and subject to reimbursement, such medicines, medical supplies, and equipment as necessary for this purpose.

"(b) To further assure the effective care and treatment of United States veterans in the Veterans Memorial Medical Center there is authorized to be appropriated for each fiscal year occurring during the period beginning October 1, 1981, and ending September 30, 1986, the sum of $500,000 to be used by the Administrator for making grants to the Veterans Memorial Medical Center for the purpose of assisting the Republic of the Philippines in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of such hospital. Such grants shall be made on such terms and conditions as prescribed by the Administrator. Such terms and conditions may include prior approval by the Administrator of all purchases of equipment and of all plans for rehabilitating and upgrading the physical plant and facilities of the Veterans Memorial Medical Center. Funds for these grants shall be provided only from the Veterans Administration's "Medical Care".

"(c) The Administrator may stop payments under any such contract or on any such grant upon reasonable notice as stipulated by such contract or grant if the Republic of the Philippines and the Veterans Memorial Medical Center fail to maintain such hospital in a well-equipped and effective operating condition as determined by the Administrator.

(b) The table of sections at the beginning of such chapter is amended by striking "632". Contracts and grants to provide hospital care, medical services and nursing home care", and inserting in lieu thereof "632". Contracts and grants to assure the effective care and treatment of United States veterans in the Veterans Memorial Medical Center."

SEC. 4. No provision of this Act shall take effect prior to October 1, 1981.

S. 1315—PENSIONS OF VETERANS BLINDED AS A RESULT OF NONSERVICE CONNECTED DISABILITY

Mr. SIMPSON. Mr. President, I send to the desk another bill to amend title 38, United States Code, to provide that the pension of a single veteran who is blind as a result of a nonservice-connected disability and who is participating in a program of rehabilitation operated by the Veterans' Administration exclusively for the rehabilitation of blinded veterans shall not be reduced because the period of care of such veterans extends more than 3 months.

We have the situation where most blinded veterans do complete their training in just under 3 months. However, there are a few such veterans who require more than 3 months to complete their rehabilitative training and who choose to terminate their training early to avoid reduction in their pensions.

This provision will eliminate this unintended disincentive to completion of rehabilitative training by non-service-connected blinded veterans. The cost impact of that measure is not at all significant.

Then the final two in the packet, and the reason these are being presented, Mr. President, is to assure that we have appropriate hearings before we get to the next issue of business of the Veterans' Affairs Committee to deal with these.

The text of the bill follows:

S. 1315

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3203(a)(1)(B) of title 38, United States Code, is amended by striking out the period at the end and inserting in lieu thereof the following: "unless the veteran is a blinded person and the care is being furnished in a Veterans' Administration blind rehabilitation center or clinic.".

S. 1316—GRADUATED-PAYMENT PLANS IN VA LOAN GUARANTY PROGRAM

Mr. SIMPSON. Mr. President, I send to the desk two further bills, one to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to guarantee home loans with provisions for graduated-payment plans. That is significant innovation.

This bill would provide some relief for lower-income level and younger veterans who would otherwise be unable to purchase a home. The initial payments, of course, in this type of financial proceeding are lower in this type of loan. Then they increase in anticipation of the future higher earnings of the veteran.

We want to pursue that. We think that is worth holding hearings on, worth discussing, and getting a full ventilation of whether that will be effective for the American veterans.

The text of the bill follows:

S. 1316

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

ESTABLISHMENT OF GRADUATED-PAYMENT PLANS IN VA LOAN GUARANTY PROGRAM

SEC. 2. Section 1803(d)(2) is amended by—

(1) inserting "(A)" after "(2)"; and

(2) adding at the end of the following new subparagraphs:

"(B) The Administrator may guarantee loans with provisions for various rates of amortization corresponding to anticipated variations in family income. With respect to any loan guaranteed under this subparagraph—

"(i) the initial principal amount of the loan may not exceed the reasonable value of the property as of the time the loan is made; and

"(ii) the principal amount of the loan thereafter (including the amount of all interest to be deferred and added to principal) may not at any time be scheduled to exceed the projected value of the property.

"(C) For the purposes of subparagraph (B) of this paragraph, the projected value of the property shall be calculated by the Administrator by increasing the reasonable value of the property as of the time the loan is made at a rate not in excess of 2.5 percent per year, but in no event may the projected value of the property for the purposes of such subparagraph exceed 115 percent of such reasonable value. A loan may not be guaranteed under such subparagraph for a purpose other than the acquisition of a single-family dwelling unit."

SEC. 3. Section 1828 is amended by—

(1) inserting "(1)" after "constitution or law"; and

(2) inserting "(2)" restricting the manner of calculating such interest (including prohibition of the charging of interest on interest), or (3) requiring a minimum amortization of principal," after "lenders,".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 3. Section 1826 is amended by:

(a) striking out subsection (a) in its entirety; and

(b) striking out "(b)" in subsection (b).

EFFECTIVE DATE

SEC. 4. The amendments made by this Act shall take effect on October 1, 1981.

S. 1317—REMARRIAGE NOT TO RESULT IN TERMINATION OF DEPENDENCY AND INDEMNITY COMPENSATION

Mr. SIMPSON. Finally, Mr. President, I send to the desk a bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a veteran after age 62 shall not result in termination of dependency and indemnity compensation.

We find that many of these survivors have cared continuously for a severely disabled spouse over and for a number of years, which often precludes them from pursuing a career. Upon the veteran's death the widow or widower is left without any means of support other than dependency and indemnity compensation know as DIC.

Those surviving spouses are often older citizens who have devoted their lives to caring for a service-disabled veteran. We believe that it is indeed unfair to deny them the benefits which they earned over the many years of devoted service simply because they might remarry during their latter years.

Many such individuals have stated to us that they live together rather than marry at that time because of the service income limitation, and they would welcome the opportunity to formalize their relationship without increasing financial hardship.

This bill and our consideration of it might well assist in their doing so.

The text of the bill follows:

S. 1317

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 103(d) of title 38, United States Code, is amended by adding the following new paragraph after paragraph (3):

"(4) The remarriage after age 62 of a surviving spouse of a veteran shall not bar payment of benefits under section 411 of this title."

Mr. SIMPSON. Mr. President, that is the package from the chairman of the Veterans' Affairs Committee. I thank the Chair for his forbearance, and I appreciate the time to present these and I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of routine morning business.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I see the distinguished Senator from Minnesota in the Chamber and he may seek recognition. If he does, after he speaks, it is my intention to continue the period for the transaction of routine morning business for most of the entire period allotted. We are trying to obtain clearance now to proceed to the consideration of the housing bill, which may take a little while to do, while we ascertain the location and availability of those Senators who must necessarily be present on the floor to manage that measure.

So I wish to make that announcement to explain why we will probably utilize most, if not all, of the time remaining for the transaction of routine morning business even though there may not be speakers on the floor to utilize that time.

I yield the floor. Mr. President.

The PRESIDING OFFICER. The Senator from Minnesota.

(The remarks of Mr. BOSCHWITZ at this point in connection with the introduction of legislation are printed under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

DAYS OF REMEMBRANCE

Mr. PROXMIRE. Mr. President, 9 days ago our Nation celebrated Veteran's Memorial Day.

Historically, it has been a day of reflection, a day of concern, and above all, a day of remembrance. This year was no exception. In Arlington Cemetery, by the Tomb of the Unknown Soldier, the Vice President laid a memorial wreath honoring those who fought and died for freedom. In the old amphitheater nearby, tribute was paid to the men who were killed in the tragic attempt to rescue the hostages in April of last year. Across the Potomac, there was a memorial service for Vietnam veterans.

In thousands of towns and cities across the United States, Americans joined in this collective expression of sentiment for victims who died in Vietnam, Europe, and Iran. It is fortunate that for these serious causes there are so many voices, and fortunate that a day has been reserved for remembering these men and women.

Another important day passed less than a month and a half ago—Holocaust Memorial Day. As in the recent Memorial Day, tribute was paid to victims; these victims, however, did not die in combat. Instead, as private citizens, they were subjected to Hitler's brutal, merciless genocide.

By definition, genocide is any act committed with intent to destroy in whole or in part a national, ethnical, racial or religious group. In Hitler's Germany, this took the form of 6 million Jewish deaths. In Uganda, under Idi Amin, hundreds of thousands were left dead. It is a vicious, hideous crime. This cannot be overemphasized.

Mr. President, we cannot forget our past, for it is with us today. Indeed, it has been said that our history gives rise to our future. Let us now, in the aftermath of both the Holocaust Memorial Day and the Veteran's Memorial Day begin to take the steps to prove what we have learned from our past. The first move was made in December of 1946 when the United Nations General Assembly, appalled at details of Nazi atrocities, unanimously adopted a resolution declaring genocide a crime under international law. I ask my colleagues now to take the last step and stand firm in support of the Genocide Treaty, expressing our realization of the need to build a humane future for mankind.

RAYMOND NELS NELSON

Mr. FORD. Mr. President, tragic violence has again struck an employee of the U.S. Senate. Raymond Nels Nelson, since 1974 a professional staff member of the Committee on Rules and Administration, was, on Sunday, cruelly murdered in his home.

A Providence, R.I. newspaperman, Ray came to the Senate in 1961 as administrative assistant to the now senior Senator from Rhode Island, Mr. PELL. He served for 13 years in that capacity.

With the Rules Committee, he served with great vigor and skill on many important legislative matters and, most recently, has been dealing with the awesome responsibilities of space assignments for the committee. His professionalism, fairness, and pleasant manner endeared him to all who came in contact with him. We shall miss him greatly.

To his wife, Shirley, and his three children, David, Rebecca, and Marc, I extend my most sincere sympathy.

REPORTS OF INTRODUCTION INTO NICARAGUA VIA CUBA OF SOVIET HEAVY EQUIPMENT SUCH AS TANKS AND JETS

Mr. THURMOND. Mr. President, the Congress, the administration, and the American people should view with great alarm reports about the introduction of Soviet military equipment into Nicaragua via Cuba. According to these reports, this equipment, possibly includes Soviet jets and tanks.

The Monroe Doctrine, issued in earlier days of our Nation, remains sound in the 21st century. This country cannot permit the arming of nations in the Western Hemisphere by a Communist state such as the Soviet Union.

Mr. President, if the cancer which has emerged in Nicaragua is allowed to grow, it will eventually spread itself to other Central and South American nations. Even Mexico, which has common borders with the United States, could be endangered.

Cuba, of course, is a mere puppet of the Soviet Union. However, Cuba must be dealt with if it allows the Soviets to use its territory as a stopping off place for the eventual clandestine transfer of armaments to Nicaragua or other Western Hemisphere nations.

The present administration has taken a proper and required step by giving aid to El Salvador which is now facing Communist inspired rebels whose support comes from the Marxist government of Nicaragua. It should not be forgotten that the ill-advised policies of the Carter administration led to the downfall of a U.S. friend in Nicaragua, former President Anastasio Somoza. In fact, it is likely that the revolutionaries who drove Somoza from office were also responsible for sending agents into our own country to assassinate him last year.

This deed removed the possibility of Somoza's return to Nicaragua.

Our recent policy toward Somoza and acceptance of the Panama Canal Treaty has led to inroads by Communist forces in Central America. These policies were rejected in the last election, and the Reagan administration should meet this threat head on since it can be dealt with more easily now than later.

Further, the administration should not be deterred by the shrill cries from certain segments of the American press which greeted the recent introduction into El Salvador of a small number of military advisors. Some of these critics are the same ones who urged the overthrow of Somoza and support for the present government in Nicaragua.

The situation we find ourselves in today has been fostered by a recent reluctance to sell arms to friendly nations in South America. We now know that if the arms cannot be procured from the United States, they will be bought elsewhere. Peru demonstrated that fact in the early 1970's, and now that country has Soviet advisors assisting it with the operation of certain types of equipment we refused to sell. In fact, in the last 5 years we have sold less military equipment in South and Central America than a distant country like West Germany, and only a little more than a small nation like France.

Mr. President, the emergency light is on in Central America. If we do not meet this challenge with skillful and bold policies, we may soon be faced with a fire which will not easily be contained.

Mr. President, in conclusion, I ask unanimous consent that an article entitled "Soviet Said to Ship Arms to Nicaragua" which appeared in the New

York Times and another article entitled "Haig Says U.S. Watching Flow of Arms to Nicaragua" which appeared in the Washington Post, both dated today, June 3, 1981 be placed in the RECORD at the conclusion of my remarks.

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

SOVIET SAID TO SHIP ARMS TO NICARAGUA

(By Judith Miller)

WASHINGTON, June 2.—The State Department said today that it had received unverified reports that Soviet T-55 tanks might have been shipped from Cuba to Nicaragua.

Administration officials said later that while there was still no hard evidence that the tanks had been shipped, Secretary of State Alexander M. Haig Jr. was convinced that the reports were accurate.

Asked about the reports today, Mr. Haig said that the State Department had noted "with increasing concern" the sophisticated armaments being shipped to Nicaragua from the Soviet Union, Libya and Cuba. He also expressed concern about the growing size of the Nicaraguan armed forces and reserves, adding that "we see nothing to justify" that kind of manpower or equipment in the country.

State Department officials said that for five or six weeks there had been significant activity at Nicaraguan ports and that this had coincided with reports indicating that tanks were on board the ships.

SOME EXPRESS SKEPTICISM

Some officials believe that the tanks may have been unloaded under camouflage, which would prevent intelligence agencies from accumulating hard evidence of their transfer.

Other officials expressed skepticism, suggesting that intelligence agencies should have been able to verify the information by now.

"The intelligence community has reported this half a dozen times," said James R. Cheek, Deputy Assistant Secretary of State for Inter-American Affairs, who is awaiting reassignment. "One day they'll be right."

Mr. Cheek said that American officials had for months expected deliveries to Nicaragua of equipment from the Soviet Union. He added that Nicaragua now possessed only a few American Sherman tanks of World War II vintage—perhaps "four or five"—and some long-outdated American training planes.

Dean Fischer, the State Department spokesman, said of the intelligence reports: "We do have information that some Soviet tanks may have arrived and that others are still in Cuba. These reports have not been confirmed."

NICARAGUA'S NEIGHBORS CONCERNED

Mr. Fischer declined to comment on whether State Department officials believed that Soviet aircraft had been given to the Sandinist Government in Nicaragua, as some intelligence information also suggests.

He said that the United States and Nicaragua's neighbors were concerned about the possible introduction of advanced Soviet arms into the region. He also suggested that such a development would prevent the United States from considering any resumption of aid to Nicaragua.

President Reagan suspended $10 million in economic aid to Nicaragua last April 1 on the ground that the Sandinist Government was aiding leftist insurgents in El Salvador. Mr. Fisher said that the United States had attempted to leave open the door" to a resumption of aid if Nicaragua ended its support of the guerrillas and its involvement in international terrorism."

Referring to the reports about the tanks, he said, It is not an appropriate time at present to resume aid."

Congressional aides familiar with the reports and State Department officials also expressed skepticism about the utility of heavy tanks in Nicaragua. One senior official said that it would be the event of the century" if the Nicaraguans succeeded in moving heavy Soviet tanks any great distance across the country since they would be too heavy for most roads and bridges and would be difficult to deploy in the country's rugged terrain.

Latin American specialists at the State Department also noted that Honduras, Nicaragua's neighbor, was better armed, having recently received about 20 medium British tanks.

HAIG SAYS U.S. "WATCHING" FLOW OF ARMS TO NICARAGUA

(By John M. Goshko)

Secretary of State Alexander M. Haig Jr. said yesterday the Reagan administration is "watching with increasing concern" the levels of sophisticated weapons being shipped into Nicaragua and "the high level of manpower" being assigned to the Nicaraguan armed forces.

"We see no threat [to Nicaragua] that justifies increases of this size," Haig said. "We will be watching closely the levels of arms that have arrived and that are expected to arrive."

Haig, answering questions at a State Department meeting for editors and broadcasters from around the country, was asked about a report in yesterday's Washington Post saying the United States has received intelligence reports that Soviet T55 tanks may have been sent secretly into Nicaragua.

He refused to comment directly on the report. But he did contend that high levels of arms "of a worrisome nature" are continuing to flow into Nicaragua from Cuba.

Some of this arms flow, Haig said, continues to be diverted to leftist guerrillas fighting the U.S.-backed government in neighboring El Salvador. Although he cited the big buildup of Nicaraguan forces being engaged in by the leftist-oriented, revolutionary government there, Haig did not specify whether any of the alleged flow is part of a long-rumored plan to equip the Nicaraguans with Soviet weaponry including tanks and MIG jet fighters.

Earlier, however, department spokesman Dean Fischer confirmed that the United States has received intelligence reports that Soviet tanks may have been shipped into Nicaragua and that additional tanks are in Cuba awaiting delivery. While Fischer said the reports have not been confirmed, he added that the presence of such Soviet weapons would pose "serious problems" for other Central American countries.

"As Nicaragua adds military equipment to its already substantial arsenal, tensions do inevitably increase," Fischer said. "We would consider the presence of heavy Soviet armor or aircraft to pose serious problems for Nicaragua's neighbors.

Daniel Ortega, the head of Nicaragua's revolutionary junta, has told The Washington Post the reports his country intends to obtain Soviet tanks and jets are "totally unfounded." However, the Nicaraguan government, which won power in 1979 after a bloody civil war, has made clear its intention to build a powerful military force, and there have been reports that the goal is for 50,000 men and women.

The Nicaraguans already are believed to have more than 20,000 people on military duty or undergoing training. The junta has justified the buildup on the grounds that Nicaragua must protect itself against hostile, military-dominated rightist regimes in Honduras, El Salvador and Guatemalaa and antirevolutionary Nicaraguan exiles centered in Honduras.

CONCLUSION OF MORNING BUSINESS

Mr. STEVENS. Mr. President, is there further morning business?

The PRESIDING OFFICER. If there is no further morning business, morning business is closed.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1981

Mr. STEVENS. Mr. President, I ask unanimous consent that the Chair lay before the Senate Calendar Order No. 111, S. 1197, the housing bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1197) to amend and extend certain Federal laws relating to housing, community, and economic development, and related programs, to provide an improved and expedited multifamily mortgage foreclosure procedure, and for other purposes,

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the bill.

The Senate proceeded to consider the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceded to call the roll.

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

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

Mr. LUGAR. Mr. President, I rise to present an innovative housing and community development bill. It represents the Banking, Housing and Urban Affairs Committee's effort to meet the difficult challenge of budget reductions while devising ways to make the use of scarce Federal resources more cost effective while streamlining burdensome and costly administrative procedures. S. 1197 is the culmination of a process which included 4 days of intensive hearings on housing and community development issues, extensive research by our staff, consultation with HUD and numerous client groups and considerable constructive debate by members of the committee in our markup session. We are confident that we have produced a thoughtful bill which contributes extensively to the improvement of our housing and community development program.

We no longer can afford programs of unlimited Federal assistance to growing numbers of American citizens.

Our country is enduring an economic trauma which requires control of runaway Federal spending. While some would argue that housing programs have borne an inordinate proportion of budget cutbacks, the truth is that housing programs, especially for increasingly more expensive new construction, are committing us for decades ahead to expenditure of tens of billions of dollars. We must scale back. Yet, we must not lose sight of our long-held obligation to assist those

who can least afford safe, adequate housing for themselves and their families. Our bill, therefore, first and foremost is our best attempt to focus limited Federal assistance on those who need that assistance most and who simply have few if any alternatives to Federal assistance.

I remind my colleagues that we have no latitude on any budget issues raised in this bill. Congress has now decided the dollar amounts and the committee has carefully constructed a bill whose funding authorizations do not exceed the limits we have set in the budget debate.

As our second major objective, we have striven for procedural simplification in both the community development and assisted housing programs under our jurisdiction. We have attempted to "deregulate" programs under our jurisdiction where unnecessary Federal regulatory instrusion has created high administrative costs and posed obstacles for State and local governments in their decisionmaking and in the administration of assistance programs. But, we have done this without weakening the purposes of CD and housing assistance programs, and in some cases we have strengthened them.

Title I of this bill addresses community and economic development authorizations.

I would like to reassure those who see in this bill a retreat from the basic purposes of the community development program. It is not. Rather, title I is a return to the original intention of the act: to provide a flexible program through which communities determine their community development needs and proceed to meet them with—as we reiterate in the body of title I—"maximum feasible priority to activities which will benefit low- and moderate-income families or aid in the prevention or elimination of slums and blight" or to meet urgent needs.

S. 1197 makes a significant procedural change in the program by eliminating application requirements, and by substituting a statement of intention, coupled with certifications that the law's requirements are being met. It is important to emphasize that the act's statement of findings and purposes has not been amended in any way. The primary objective of the program remains "the development of viable urban communities, by providing decent housing and suitable living environments and expanding economc opportunities, principally for persons of low and moderate income."

The minority in its supplemental views misconstrues our purposes in eliminating the application process. It is simply incorrect to state, as the minority does, that "the bill would dismantle program features designed to assure that low-income persons and distressed neighborhoods principally benefit from the program, as originally intended; that local citizens, not just officials in city hall, have adequate opportunity to participate in the development of the local program, and that the Federal Government exercise some responsibility for the use of the program's funds." This matter is sufficiently important that we should take time to set the record straight.

I shall address each of these major criticisms in turn.

First, our bill makes no change in the basic purpose of the act. Indeed, to make this clear, we have reiterated, in section 102(b), that community development funds must be used "so as to give maximum feasible priority to activities which will benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight"; or to meet urgent needs posing a serious threat to health or welfare when other funds are not available. These requirements are taken from section 104(b)(2) of the present law. Nor should our commitment to this purpose ever be in doubt.

Since 1974, there has been disagreement over the administration of the community development program. But this dispute has not been over its basic purposes. Although it has to some extent involved priorities, the basic issue has been the extent to which HUD should intrude with its conception of what is appropriate to carry out these purposes and, in effect, to substitute its judgments for those of the local officials charged with administering the program.

The provisions of the 1972 act relating to the application requirements and review have been amended more frequently than any other section of the act—indeed, since 1974 there have been 23 changes made in the provisions of this single section. It is much simpler and more straightforward, since the intent of the act has always been to give communities flexibility to determine how best to meet the purposes of the act, to strike this controversial section and, instead, emphasize HUD's proper role in reviewing actual performance. In our bill, we thus reaffirm the basic tenets of a block grant as envisioned by the drafters of the original 1974 act.

Second, the minority charges that our bill dismantles the citizen participation requirements of the act. In fact, it does not. The committee bill is stronger on this score than the administration's proposal. Section 102(b) of the bill explicitly requires that grantees furnish citizens with information about funds available and activities that may be undertaken; gives citizens an opportunity to examine and comment on both the statement of proposed activities and the performance of the grantee; and, to assure that this is done, requires at least one public hearing at which citizens may express their views.

Under our bill, grantees are required to consider all citizen comments; but, as in present law, they are not required to accept them. I reiterate: Here, as elsewhere, we are simplifying procedures, not changing substance. Moreover, I can state from my own experience that few city officials who ignore the views of the citizens will long survive in public office. The majority believes that it is appropriate to assure citizen access to information, to provide them with an opportunity to express their views, and to assure them that those views are taken into account. Where we disagree with the minority is over the appropriateness of requiring specific, rigid plans to achieve this purpose. It is not right to intrude in a process which is already governed by State and local law in most communities. It would be naive to believe that the sophisticated groups which have become experienced with local CD programs will find it any more difficult under our bill to maintain their high level of involvement.

Finally, we have retained, explicitly, HUD's responsibility to assure that community development funds are spent for the activities and purposes for which they are provided. That is the essence of the block grant concept: To establish clear purposes and set a range of activities, while permitting State and local governments the flexibility which responsiveness to local needs and conditions requires. The vehicle for doing this is not, however, the application. Rather, the bill makes clear the original intent of the 1974 act—an intent which we believe has been distorted in recent years—to enforce the act by reviewing actual performance and, if necessary, adjusting or conditioning grants. Under our bill, HUD is required, no less than annually, to review recipient performance for compliance with the requirements and objectives of the act.

We expect HUD's performance reviews to be both responsible and thorough. Moreover, there is a model at hand—the approach taken to performance monitoring by HUD Secretary Carla Hills and Assistant Secretary David Meeker in 1976. HUD's performance reviews at that time focused not on minor and insubstantial matters, but on whether the purposes of the act were being carried out and, if not, how communities could be helped to comply with the act. As both a statement of the kind of approach the committee has in mind and a possible model for HUD to follow, I ask unanimous consent to insert in the RECORD at this point information on HUD's performance monitoring approach supplied to the Banking Committee when it held oversight hearings in 1976.

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

CURRENT AND PROJECTED CDBG MONITORING ACTIVITIES

INTRODUCTION

Section 104(d) of Title I of the Housing and Community Development Act of 1974 requires the Department to undertake annual reviews of each block grant recipient's performance and compliance with statutory and regulatory requirements of the Community Development Block Grant program.

GENERAL BACKGROUND

The Department issued its initial guidelines for monitoring in Handbook form on November 13, 1975. Pursuant to those guidelines, each of HUD's ten Regional Offices devised its own monitoring system, to be implemented by the respective Area Offices in that Region. The Regional Offices retain responsibility for the overall management of monitoring activities in their respective jurisdictions. Additionally, on a very selective basis, Central Office personnel will accompany Area Office staff on monitoring visits to ensure that the monitoring activity is carried out in a manner consistent with the statute and program regulations.

Although the different Regional Monitoring Systems vary with respect to the nature and scope of activities to be undertaken by Area Offices, they all mandate a mix of ac-

tivities combining both in-house and on-site monitoring reviews of grantee performance and compliance with program requirements.

IN-HOUSE MONITORING

Continuing activities by HUD staff to assess grantee performance and compliance, short of an actual site visit to the locality, constitute HUD's in-house monitoring effort. The principal tool for in-house monitoring of the block grant program is the Annual In-House Review performed prior to approval of the subsequent year grant for all entitlement communities, and less frequently for discretionary recipients. Due to the fact that the In-House Review is performed as part of the application review process, which got underway during the early months of 1976, experience with this activity is limited to the third quarter of the Fiscal Year. This Review is useful primarily as a means of collecting, at one time and in one place, all relevant information possessed by HUD relating to a particular grantee's performance and compliance, e.g., application materials, audit results, citizen complaints, results of site visits, and other general files.

In the area of compliance monitoring, the In-House Review is most effective for those subject with which the Area Office staff have the greatest day-to-day contact, e.g., eligibility of program activities, financial procedures. For other areas of potential compliance difficulty, such as equal opportunity requirements and Federal Labor Standards, it is necessary in most cases to conduct on-site monitoring of the grantee's program.

ON-SITE MONITORING

The principal form of monitoring activity engaged in by the Department during the second and third quarters was the site visit to the local grant recipient.

During the second quarter (October 1–December 31, 1975), the average number of on-site visits made in each Region was 110. Approximately 75 percent of second quarter visits were made to entitlement recipients. with the remaining 25 percent to discretionary grantees. During the third quarter (January 1–March 31, 1976), the average number of on-site visits by Regions was 224, representing a substantial increase. Of the number of localities which were the subject of site visits during the third quarter, the figures reveal that 60 percent of the national total of 1324 entitlement grantees, and 27 percent of the 1803 discretionary grantees were site-visited by HUD.

Regular site visits were made to every type of grantee: metropolitan cities; urban counties; hold harmless communities; metropolitan and nonmetropolitan discretionary grantees. In addition special site visits were made in all of the major program areas: relocation/acquisition; environment; equal opportunity; financial management; labor standards; citizen participation; housing assistance plans; eligibility of program activities; and capacity of the grantee.

MONITORING RESULTS

The ultimate goals of the Department's monitoring effort are to insure that statutory and other program requirements are met, and to formulate corrective or remedial actions to deal with any deficiencies on the part of grantees. In this regard, the quarterly reports indicate the number and general nature of "findings" made and "actions" taken in various subject areas.

During the second quarter, the primary areas of difficulty for grantees nationwide were equal opportunity, labor standards, and the environment. Much of the early monitoring focused on recordkeeping and other procedural matters, rather than grantee performance in carrying out their program, due to the fact that most grantees were just beginning their program activities.

During the third quarter, equal opportunity emerged as a difficult problem area for grantees: Equal opportunity was the subject of 23 percent of findings made and actions taken, nationwide. Other significant problem areas include relocation/acquisition (18.3 percent of findings), citizen participation (12.2 percent of findings) and environment (12.2 percent of findings). A total of 1294 findings were made nationwide in ten subject areas during the third quarter.

The findings being made are varied. Examples of the types of findings reported by the Regions include:

"Equal opportunity—(inadequate recordkeeping and lack of affirmative action plans);

"Labor Standards—(failure to hold preconstruction conferences and failure to send required notices of certain activities to the Area Office);

"Environment—(miscalculation of time periods for public comment on environmental findings and inadequate documentation within the environmental review record; and local draw down of funds before release by HUD.)

"Financial management—(Inadequate Accounting Systems and Violations of $10,000 minimum draw down requirements)."

Most of these violations are of a type to be anticipated during the start-up period of any new program. As grantees gain experience with HUD procedures and other program requirements, these types of violations should decrease.

Site visits were clearly the most effective source of findings during the third quarter: 81.6 percent of national findings were made as a result of on-site visits.

ACTIONS

Most of the actions taken during both the second and third quarters were in the form of warning letters or other advisory communications to grantees found to be deficient in terms of performance or compliance, a result which is generally appropriate to the first monitoring effort. For the most part, second year applications had not been received by HUD Area Offices during the second or third quarters of the fiscal year. Therefore, the actions taken by Area Offices in the subject quarters reported are not necessarily representative of the type of actions that would be taken when applications are pending before the Department. The great majority of applications are submitted during the fourth quarter of the fiscal year. The letters generally outlined the nature of the problem, offered assistance in its correction, and advised the grantee that continued noncompliance would result in more severe actions by HUD. It is likely that particular cases of grantee deficiency will require additional follow-up to the warning letter in an effort to insure that the required performance or compliance takes place.

Most of the actions taken other than warning letters (34.2 percent of the total actions) involve direct communication between HUD staff and the grantee in an effort to render the necessary assistance and arrive at a solution to the problem, in order to bring the grantee into conformance with the law or regulations. Such communication was either in written form, by phone, or by means of a personal conference.

In a few cases involving serious performance or compliance problems, more severe actions were taken, e.g., failure to invite a subsequent year's discretionary application, substitution of local funds for block grant funds, conditional approval of the subsequent year's grant.

CONCLUSION

The Department's monitoring effort, initiated during the second quarter of Fiscal Year 1976 and significantly expanded during the third quarter, appears to be achieving the goals to which it was directed. The results of the Department's monitoring efforts have been significant. As a result of the site visits, Area and Regional Offices are able to take appropriate corrective and remedial actions to remedy, where possible, the deficiencies that are found, and in many cases to prevent continuance of the deficiencies or violations of Community Development Block Grant requirements.

Grantees in all Regions appear to be pleased with HUD's monitoring effort, particularly the site visits. These activities afford them an opportunity to become aware of any deficiencies that exist in their community development programs, and to receive the necessary assistance from HUD to arrive at solutions to these problems.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
May 6, 1976.

MEMORANDUM

To: All Regional Administrators.
Attention: Assistant Regional Administrators for Fair Housing & Equal Opportunity
Assistant Regional Administrators for Community Planning & Development.
From: James H. Blair, Fair Housing & Equal Opportunity, E David O. Meeker, Community Planning & Development Co.
Subject: FH&EO Review of Entitlement Applications.

FH&EO review of entitlement applications is expected to be thorough, taking into account experiences of prior years. Certifications will continue to be accepted; however, additional information or assurances from the applicant may be required when there is substantial evidence in past performance which contradicts or challenges the certifications (570.306(b)(1)). The same general principles apply to hold harmless and discretionary applications; however, the extent of the review may be modified as appropriate to the amount of the grant.

Consistent with the provisions of section 570.306(b)(2) of the Community Development Block Grant regulation, FH&EO staff shall recommend approval of the application unless it is determined:

"i. on the basis of significant facts and data, generally available and pertaining to community housing needs and objectives, the applicant's description of such needs and objectives is plainly inconsistent with such facts and data; or

"ii. the activities proposed in the application to be undertaken are plainly inappropriate to the meeting the needs and objectives identified by the applicant; or

"iii. the application does not comply with the block grant regulations or other applicable law."

With respect to the first two standards, section 570,303(a) requires the applicant, in identifying its needs, to take into consideration and summarize any special needs found to exist in any identifiable segment of the total group of lower-income persons in the community. In its review, FH&EO staff should take into account whether the applicant has taken such special needs into consideration and summarized them. With respect to the third standard of review, FH&EO staff should analyze the application within the context of the equal opportunity certifications under section 570.303(e)(11) and the non-discrimination requirements of section 570.601. If application of these standards indicates a failure on the part of the applicant to comply with these regulations, FH&EO staff shall indicate, pursuant to section 507.306(b)(1), the substantial evidence, including significant facts and data, which challenges the certifications, statements of fact and data, or other programmatic decisions, and shall recommend appropriate additional information and specific assurances to be required from the applicant.

Further, the Area Office shall review the

recipient's past performance to determine whether:

"i. the recipient has carried out a program substantially as described in its prior application(s):

"ii. the program conformed to the requirements of the block grant regulations and other applicable laws and regulations; and

"iii. the recipient has demonstrated a continuing capacity to carry out in a timely manner the approved community development program."

If the recipient's past performance pertaining to minorities and women varied substantially from that described in its application and the subsequent application does not amend or correct the matter, the evidence shall be documented and corrective action recommended, including appropriate recommendations for additional information and specific assurances. Any modifications and/or actions proposed by FH&EO staff to correct deficiencies shall be coordinated with Area Office procedures for such notification and consistent with the timetable as called for in the memorandum of November 29, 1974 from Assistant Secretary Meeker. Final actions taken by Area Offices should involve only minimal use of contract conditioning.

If, in the course of the review of past performance, FH&EO Area Office staff find what they believe to be noncompliance with section 109, title VI, Executive Order 11246 or section 3 requirements, the matter shall be discussed immediately with FH&EO Regional staff for determination as to referral for compliance review. Such referral, however, shall not be the basis for recommending disapproval of the application.

JAMES H. BLAIR,
Assistant Secretary for Fair Housing and Equal Opportunity.
WARREN H. BUTLER,
Assistant Secretary for Community Planning and Development.

Attachments:

(1) Checklist: Review of Past Performance.

(2) Checklist: Entitlement Application Review and Instructions.

FAIR HOUSING AND EQUAL OPPORTUNITY—CHECKLIST: REVIEW OF PAST PERFORMANCE

[The following questions must be answered before reviewing the subsequent year's application. Sources of information include prior year's application and comments, site visits, performance report and additional information requested from the recipient, as may be necessary]

	Yes	No*	NA
1. Were activities proposed for last year designed to directly benefit minorities generally commensurate with need?			
2. If yes, did they get substantially underway during the program year?			
3. Has any housing assistance been provided (occupied) during the program year?			
(a) Have minorities benefited commensurately with need (as stated in prior application)?			
(b) Have female-headed households benefited commensurately with need?			
4. If the recipient has proposed activities generating relocation, answer the following:			
(a) Has relocation begun?			
(b) Is there a positive pattern of relocation for minorities? (Service and location)			
(c) Is there a positive pattern of relocation for female-headed households? (Service and location)			
*For no answers jot down vital statistics and source of information (e.g. performance report, table IC) which documents the deficiency. Subsequent applications should be reviewed in light of these deficiencies and this data will provide the basis for looking beyond the assurance. Specific areas of concern and recommended actions are incorporated as a part of the application review checklist.			
5. Has the recipient demonstrated affirmative action in employment as required in the equal employment opportunity clause of the grant agreement?			
6. Has the recipient taken action to affirmatively further fair housing through such activities as land development, zoning, site selection policies or programing?			
7. Has the recipient taken action to prevent discrimination in the sale, rental and/or financing of housing within the recipient's jurisdiction?			
8. Has the recipient demonstrated affirmative actions as required under sec. 3?			
(a) Utilizing lower income area residents as trainees and employees?			
(b) Utilizing sec. 3 eligible businesses?			
9. Has the recipient demonstrated affirmative action as required under Executive Order 11246?			
*For no answers, jot down vital statistics and source of information (e.g., performance report, table IC) which documents the deficiency. The reviewer shall recommend corrective action, looking beyond the assurances, if data indicates that an assurance maybe meaningless. Such action could include the provision of additional information and specific assurances, including timetables, prior to approval of the application.			
Examples:			
(A) The applicant, while agreeing through certification to take action to affirmatively, further fair housing has in fact taken no action during the program year (performance report VB. 1 and 2). The reviewer may recommend that the applicant be required to provide a specific assurance, including the actions it will take and the dates these actions will be implemented.			
(B) Although the applicant has had significant personnel action during the program year, this action has not demonstrated affirmative action in minority and/or female employment in the program areas funded in whole or in part by CDBG funds (performance report VE). The reviewer may recommend that the applicant be required to provide a specific assurance, including numerical goals and timetables, necessary to demonstrate affirmative action.			
10. If an on-site visit has been conducted, is the recipient maintaining data as required in:			
(a) Sec. 570.900(c)—Performance standards			
(b) Sec. 570.907(f)—Recordkeeping			
11. Has the recipient complied substantially with all EO related conditions specified in prior assurances and the grant agreement?			
*For no answer, jot down vital statistics and source of information (e.g., performance report, table IC) which documents the deficiency. Recommend institution of departmental procedures for termination, reduction or withholding of funds until corrective action is taken. A subsequent application should not be approved until this situation is corrected. Any deficiencies in questions 1 to 9 may be treated as above if:			
(A) The applicant refuses to amend the application or provide additional information or assurance, or			
(B) The applicant provides additional information and/or assurances but does not meet either the goals or timetables to which it has agreed			

(a) Percent and characteristics of minority and female heads of household by census tract, available from the U.S. Census (PHC–1 and PHC–3) and R. L. Polk and Company Surveys in selected localities (female-heads of households, only).

(b) Location of existing assisted housing by type.

(c) Appropriate newspaper clippings relating to civil rights.

Integrated into the "community profile", in summary form, should be:

(a) Maps which may include overlays showing minority concentrations, tracking materials derived from census block statistics and accompanying maps and/or supporting documentation previously submitted by applicants such as those included with:

"(1) Instructions for compliance with Title VI for the Neighborhood Facilities Grant Program (HUD 41906), Public Facility Loan Program (HUD 41905), the Open Space Land Program (HUD 41907) and the Neighborhood Development Program (HUD 41904).

"(2) Workable Program Submissions, including conditions to recertifications.

"(3) 701: Housing Elements; Studies in areas covered by CD Block Grant activities which identify problems of low income, minority, and/or female-headed households, including constraints, obstacles for delivery systems for services, and proposed treatment; Progress Reports and Final Project Closeout Reports; and any EO Contract Conditions.

"(4) Community Renewal Programs which illustrate community needs and/or delivery of existing facilities or services.

"(5) General Neighborhood Renewal Plans; Conventional Urban Renewal Plans (including individual plans—not NDP); Interim Assistance Plans, Disaster Planning Funds; Federally Assisted Code Enforcement Programs (115) and 312 grants and loans); Neighborhood Improvement Programs; Conventional and NDP Plan changes; Model Cities Planning Data, i.e. initial submissions and updates; CDA Letter #11 Plans; Low Rent Public Housing Program Reservations including section 23 Leasing."

(b) Information and maps available from EMAD, . . . e.g., Housing Market Reports, Annual Housing Surveys, Post Office Surveys.

(c) Studies by civil rights or public interest groups, universities, planning commissions and areawide and state planning organizations. Civil rights groups who express interest in providing assistance could be urged to review extent material, such as that listed above, to help prepare factual, EO profiles.

2. Alternatively, use the maps attached to the application if they are good and only supplement them with data on existing locations of assisted housing. For large cities, group similar census tracts. Keep these maps or tables with EO files. Send them to processing only if necessary to make a particular point.

3. a. Keep in EO files. Send to processing only if necessary tomake a particular point.

b. If deficiencies have been found in Questions 1–4, corrective action is required in the planning and programming of community development activities. These corrections should be reflected in the answers to Question No. 7.

4. This requires a comparison between the "facts" of the EO Community profile and the applicant's "facts" as contained in the application. If the facts in the application are substantially inconsistent with available information, the Reviewer should check "no", describe the deficiency, providing data and the source of the information which contradicts the application, and recommend corrective action.

As an example:

The minority area(s) of town has no public sewer system, a seriously inadequate septic system and/or dirt roads. The applicant identifies a number of community development needs, but does not identify these community development needs in the mi-

nority area(s). The reviewer shall succinctly present this evidence, noting how it may violate the provisions of 570.601 (2) and (3) as well as 570.303(a), and recommend corrective action.

In some cases the application may be incomplete. As an example:

In preparing a HUD funded Community Renewal Program, the locality had noted that 3 areas of the city were most severely deficient in streets and street improvements—all of them minority areas. The CDBG applicant in describing a need for street improvements within the locality, does not identify and/or summarize the greater severity of need of the minority community, as required in 570.303(a), although there is evidence that these deficiencies have not been corrected. Document the evidence and recommend corrective action.

8. Housing Assistance Plans. There are 3 primary sources of information on housing assistance needs. These are the U.S. Census publications and special tabulations; Polk and Company data; and state and area-wide agency studies.

Currently available in each area office is a special census tabulation prepared by EMAD which indicates housing deprivation of persons by family type and by minority groups. Housing assistance needs of minorities identified in table II which are below the figures in this special tabulation shall be documented and corrective action recommended.

9. If the goals are inappropriate to meeting the needs, the reviewer shall document the evidence and recommend corrective action. The following factors should be used to test appropriateness:

"(a) Proportional goals by household types. This is described in the HAP instructions and is one test of appropriateness.

"(b) Appropriateness of goals by tenure types. While proportionality is not required between meeting the housing assistance needs of current owners and renters, a community which has identified housing assistance needs for persons currently renting or expected to reside may not ignore these needs in their goals. The numerical goals for meeting the identified housing assistance needs of renters and persons expected to reside shall respond to these needs in a meaningful way.

"(c) Appropriate use of section 8 or other resources. Where needs are identified, and housing assistance resources (including section 8) which would serve the stated needs are available, the community must propose sufficient housing resources to meet, in a meaningful way, the needs of the income range identified in Table II.

"(d) Consistency of this year's proposed activities to 3-year goal. While the applicant is not required to meet all needs proportionately in any given year, the activities scheduled for any one year may not preclude meeting the proportionality or appropriateness tests (b. and c. above) over a 3-year period."

10. Self-explanatory.

11. This ties past performance to proposed goals. If a community for example, has not met prior goals for all or a part of their housing assistance, has not found suitable sites for new construction, or whose occupancy records in the HAP Performance Report indicate minority or female participation significantly below the needs which they have identified for these groups, the reviewer should document such evidence and recommend corrective action. Corrective action may include a recommendation for a specific assurance from the applicant, including goals and timetables, prior to approval of the application.

It is important, of course, to determine the causes of the failure to perform. For example, if such failure is due to problems associated with HUD's delivery of available resources, and the community has taken positive steps to make use of available resources without success, there should be no basis for penalizing the applicant. On the other hand, if the applicant has failed to take necessary actions within its control to facilitate the use of available resources to meeting housing needs, disapproval of the application may be appropriate. Brevity and specificity in requiring such specific assurances is illustrated by the following:

"... It is expected that (the City) will establish a timely schedule for implementing the Resolution which pledges that it will locate and approve sites for at least 90 units of family housing, of which 60 units or more must be in areas not having an undue concentration of assisted persons or low-income persons.

"It is imperative that specific sites be ready for our preliminary review no later than September 5, 1975. My staff and I would be happy to assist you in any way during the interim period to achieve this objective. Firm approved sites should be available to implement the production of the units no later than October 10, 1975. In this way, we can reach initial implementation of your Housing Assistance Plan during the first action year."

(Mr. SCHMITT assumed the chair.)

Mr. LUGAR. We leave virtually unchanged the requirement that entitlement communities must develop a housing assistance plan as a part of the community development process. This remains the principal link between the community development programs of a community and its housing needs.

Under our amendments, a community must certify that it has a current housing assistance plan in place, previously approved by the Secretary.

The small cities block grant proposal in the bill provides an optional opportunity for States to participate in the program by administering funds distribution for nonentitlement cities.

The committee believes that the small cities program can be enhanced by allowing States which are capable and adequately equipped to become involved in the process. Many States have community affairs departments. Most carry on community development activities.

Most have resources which can be used to assist small cities to meet their critical problems. We should not ignore them.

The provisions of the bill give States an option to administer funds distribution for nonentitlement cities if they: Provide a 10 percent cash match for the Federal funds; consult with local governments in developing a distribution system; administer the program with State funds; and provide technical assistance to the small cities.

The committee plan is a well conceived strengthening of federalism. In specifying that the funds cannot be used except to benefit small cities, the program avoids charges that the States will use the funds for other purposes.

It prohibits States from using only Federal funds for administration of the program, and very strongly specifies that local officials must be consulted in developing the funds distribution process.

These requirements are designed to assure that States choosing to participate in the process will be doing so in good faith, with the purpose of aiding the small cities within their boundaries.

In the event that a State does not choose to operate a program or is prohibited from doing so by failure to meet the bill's requirements, then the small cities are protected by HUD, who will operate the program essentially as in the present manner albeit with less procedural intervention.

These changes have been made to encourage those States which have already demonstrated an interest in local community development and to discourage those whose only attraction is the availability of Federal funds for building their own infrastructure.

States are free to develop whatever purposes and procedures for distributing funds that State and local priorities dictate. And consultation with local officials is required to assure a logical, appropriate, and equitable process for using the Federal funds.

Mr. President, I want to take a moment to anticipate a question which relates to the existing small cities program.

Under the State block grant program, States will be able to make multiyear commitments to their small cities. The proposed State block grant legislation is structured to provide States with maximum flexibility to meet the needs of their small communities.

States are in the best position to be sensitive to the needs of all of their smaller localities and to determine whether a multiyear commitment for some particular program is most responsive to local needs.

Since we anticipate that States will alter the existing program to be more responsive to their requirements and the needs of their communities, the proposed legislation does not contain a provision mandating continuation of existing multiyear commitments made by HUD where a State assumes administration of the program.

However, under the proposed statutory provisions, States may allow communities to receive the remaining years of a commitment and we would anticipate that they would choose to view this as a moral commitment to do so in order to provide as much continuity as possible for their communities.

Turning to the urban development action grant program, the committee retains the UDAG program as a separate section of the Housing and Community Development Act of 1974.

It is funded at $500 million per year for 1982 and 1983. The committee was impressed with the outpouring of support of this program hearing it described as one of the most successful economic development assistance programs devised by the Federal Government.

Again, as in community development, we undertook to make procedural changes which underscore administrative simplification without major changes to the substance of the program.

But we do sharpen the focus of the program in order that scarce Federal dollars may be concentrated on activities with the greatest economic benefits to their communities. We have also tightened the administration of the program by HUD to assure maximum return on the Federal dollar.

Mr. President, as our colleagues know, the administration had proposed originally that the UDAG program be funded for only 1 year.

This proposal reflected the fact that while the Secretary expressed his support for UDAG, he is engaged in a complete evaluation of the program's effectiveness and its relationship to future economic development programs.

We do not view our 2-year extension of the UDAG program as a preemption of the Secretary's prerogative to make recommendations for change to us after he completes his study.

Turning to housing, Mr. President, in this portion of the bill, the committee has again attempted to streamline the administrative procedures as well as to tame the growth of costs for assisted housing projects.

Yet, we believe this is a compassionate bill for we try to serve the needs of the truly poor and institute more equity into the aspects of the program which affect their ability to pay rent and otherwise meet living expenses.

The major budgetary problem that we face in housing programs is that funds are committed for subsidized housing far in advance. Budget authority provided today commits the Government by contract to housing subsidy payments for the next 15 to 40 years.

Given the skyrocketing costs of new construction, the Government cannot meet unlimited needs in providing housing assistance.

Our goal is to provide more housing. But continuously throughout this portion of the bill we have inserted provisions designed to target our limited funds to provide safe, decent, and adequate housing for those who are most in need.

Working again, well within our budget requirements, the bill provides assistance commitments for an additional 150,000 units in 1982 and 140,000 more in 1983.

Although this is a reduction from previous requests, it still means that we will be assisting 290,000 new families, 45 percent of these units will be new construction or substantially rehabilitated, and 55 percent will be existing units.

Several measures in the bill are designed to stretch the limited funds as far as possible.

For example, eligibility for assistance is limited to those with income below 50 percent of area median income rather than the current 80-percent limit.

This is still well above the poverty level in most areas, and is consistent with the purpose of aiding very low income families in obtaining decent housing.

Tenant rental payments under all of HUD's rental assistance programs would increase from current limits of 30 percent of adjusted family income, 10 percent of unadjusted family income or 15 percent in the case of section 8 tenants, or the housing portion of a household's welfare payments.

In addition, the definition of adjusted income would also be changed by income deductions across all programs to allow only for deductions for minors and elderly and handicapped persons.

The current system of deductions favors higher income tenants, who spend more and can then take more deductions.

However, to avoid undue hardship to those families receiving assistance, rent-rule changes will be phased in over a 5-year period and in no case shall result in an annual rent increase of more than 10 percent for any current tenant.

Several provisions in the bill amend the housing programs in ways that would reduce the average expenditures per assisted tenant again with the intention of stretching Federal dollars to assist as many of the truly needy as possible.

Among these provisions are a requirement that new section 8 projects be "modest in design and * * * reduce the types and number of unnecessary amenities and features," and another that limits Federal payments for vacant section 8 units to 1 month. Efficiency units are also encouraged in projects for elderly or handicapped persons.

The bill removes the requirement that section 8 and public housing projects must house families with a broad range of incomes. The committee feels that by requiring this economic mix while truly needy families go homeless is an injustice that was never intended in the original assisted housing programs.

The bill also recognizes the plight of local public housing authorities who are desperate for operating subsidies for those units already occupied. Operating subsidies are authorized by the bill at levels of approximately $1.2 billion in fiscal year 1982 and $1.35 billion in fiscal year 1983.

Several of the provisions I have discussed have the effect of standardizing certain administrative procedures where previously different procedures applied to the different housing programs.

These standardizations will not only save time and money, and make the programs more understandable, but will correct inequities in the ways these programs are administered.

None of the measures in the bill is designed to do anything less than provide safe, decent, and adequate housing to those most in need. We are attempting to make the limited funds we have work harder than ever to achieve that goal.

The balance of the bill, Mr. President, is relatively uncontroversial. Title III extends FHA insurance authority, increases loan limits on various manufactured housing insurance programs, extends the flood insurance program while repealing erosion coverage and extends the riot insurance program while repealing crime insurance protection.

Title IV creates new mortgage foreclosure procedures to permit HUD to speed up the process by which it recovers foreclosed multifamily rental units. This title overrides existing State mortgage foreclosure procedures which vary in their complexity and the time in which a building may be foreclosed and disposed of.

This new procedure is necessary to speed up foreclosure intakes to protect the physical condition of foreclosed properties and the quality of environment in which the tenants live during these proceedings. The committee received no opposition to the title and believes it is in the best interest of maintaining viable multifamily rental housing stock.

Title V is a simple, 1-year extension of the Department of Agriculture's rural housing programs. Few changes were made to these programs due to the limited amount of time in which we had to review them.

It is the committee's intention, however, to conduct a thorough review of the programs, for among other reasons, to determine if they are consistent with HUD assisted housing programs.

To the best of our knowledge, the rural housing programs have not been reviewed by the Senate since 1976 and we would all agree that much has changed in the housing needs of our country since then.

Mr. President, we are pleased with this bill believing it to be a constructive proposal for enhancing the quality of our communities, strengthening the bonds of federalism, and compassionately yet realistically meeting the fundamental and immediate housing needs of the poor.

And while not all of it was fully supported by all members of the committee, I commend this bill to my colleagues and urge its adoption in the traditional bipartisan manner that has marked our past efforts.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, the Reagan administration has roared into the battle for a stronger economy carrying a banner that shouts "cut spending."

Now, I join that battle with joy. Hurray. For years I have been pleading with my colleagues in this body to cut back Federal spending. Now we have a President who not only agrees but also who has led the charge with a series of recommendations for sharp reductions.

In general, the Senate, as well as the House, has gone along with the President. I think we should have gone farther but the response in Congress to this call of retrenchment has been solid and constructive.

Now, today we come to a different phase of the Reagan crusade. Today we do not debate and decide on levels of spending. The budget resolution took care of that. Today we decide where the money we make available for housing and community development goes. We decide how to allocate and control money we take from the Federal taxpayers and expend for the purpose of reducing the slums and blight that shame our country and for the purpose of improving the pitifully inadequate housing that imprisons millions of our very poor.

The Banking Committee divided almost down the middle over this issue. Eight members voted to report the bill in its present form; seven members voted to knock out title I. Seven voted against reporting the bill at all. Now, why this division? Why did the committee so narrowly split on this bill?

An editorial in this morning's New York Times puts the issue squarely. That editorial, incidentally, is on the

desk of every Senator. It is entitled "Keep a Federal Eye on Federal Aid."

The editorial says, in part:

Congress will finally have to decide how to structure Federal aid to localities. Where it aims merely to use the Federal taxing power to support state and local budgets, it should attach no strings and relax all supervision. But where Federal assistance is to be earmarked for rebuilding cities and alleviating other social problems, it will have to insist on intelligent monitoring of how the money is spent. There's nothing socialistic about businesslike audits.

Now, the present law provides the cities with leeway to use the money for housing and community development with considerable discretion. Since 1974, when the Nixon administration recommeded and the Congress passed the community development program, the law has permitted mayors to use the money for three broad purposes: Eliminating slums and blight was number one; aiding low and moderate income families, number two; and alleviating other pressing needs.

Now, has the law unduly constricted the discretion of the Nation's mayors? Consider a report of the General Accounting Office before we decide, as the present bill before us would do, to relax standards any further.

What the GAO found was that there has been considerable abuse in the program as presently constituted. Here is a program—just think of this, Mr. President—here is a program that provides a tiny proportion, perhaps 1 percent of the money needed to provide adequate housing for the Nation's poor and to repair the blighted part of our cities. So limited funds should go to the most urgent housing and community development needs.

And yet, the GAO tells us that some of these funds have gone for music lessons and ice-skating lessons. That is right, music and ice-skating lessons. And with literally millions living on $5,000 a year or less, in one community 15 percent of the rehabilitation loans went to homeowners with incomes exceeding $30,000 per year.

Now, in committee, this Senator tried to tighten up the law by confining the rehab aid to families with incomes no more than 20 percent above the poverty level. When that would not fly, I proposed limiting assistance to families with incomes not exceeding 20 percent above median. The committee would not even accept that.

So, together with almost half of the committee, I voted against the community development section of the bill and then against the bill itself.

Now, what happens if the Congress knocks out title I of this bill? And I intend to offer an amendment shortly that would do that. It means we revert to present law, which, at least, provides for a system of accountability and reporting which, for all its faults, does require that most of the money serve the purpose of housing the poor and eliminating slums and blight.

The bill, as reported by the committee, in the words of the New York Times:

. . . proposes to pour a series of valuable domestic programs into one hat and pull out conservative rabbits called block grants. And where Government aid has already been thus transformed, as in so-called community development grants for cities, the White House wants to prove that the animal can be safely let off the Federal leash.

Mr. President, Congress and the President are well on their way to making historic reductions in spending on Federal programs. We should certainly insist that the money we do spend, since we are cutting it down, goes to help those who need help the most. No way will we do that by tossing billions out to the cities and telling them not to worry about accounting for how they spend it.

Now, let me be specific. The bill's five titles contain a variety of program revisions and extensions affecting virtually all areas of housing and community development. Included in the legislation are a major rewriting of the community development block grant program, reductions in fiscal year 1981 budget authority in compliance with Budget Reconciliation Instructions, authorization for 150,000 units of section 8 and public housing, down from 210,000 units last year, significant revisions in the section 8 rental assistance program, extensions of FHA insurance authorities, a new program to facilitate HUD's acquisition of multifamily projects in default, and the reauthorization of various rural housing programs.

This bill embodies a number of fundamental shifts in our approach to housing and community development. It includes some very worthwhile provisions.

But regrettably, the bill also contains some serious flaws that I believe must be corrected before the bill can be approved.

Mr. President, I would like to comment further on several of the more significant sections of the legislation.

Title I of the bill would almost totally revise the community development block grant program, and in so doing it would scrap many of the provision that in the judgment of many of us, are essential to assuring that the program accomplishes its objectives.

It would gut provisions of existing law designed to assure that the program principally benefits low and moderate income people and that its funds are targeted to worthwhile activities that are consistent with the purposes of the act. It would establish a new State role in the administration of the program for small cities, thereby needlessly creating another layer of bureaucracy in the program.

And, it would eliminate the law's requirement that, as a condition of receiving block grants, small cities must develop a housing assistance plan that reflects low and moderate income housing needs—that would be eliminated, the requirement that they develop a program to show that they are meeting the low and moderate income housing needs of their community—thus sending a clear signal to these communities that attention to low and moderate income housing needs can take a back seat in overall program goals.

Mr. President, these sweeping changes were approved with little opportunity for the committee or public interest groups to review them and to assess their impact. In fact, the legislation containing these revisions arrived at the committee's door literally hours before the secretary of HUD and public witnesses were scheduled to testify on the administration's housing and community development recommendations, and only days before the committee conducted its markup of the bill.

So they had no real opportunity to testify on the changes that go so far in the present law.

In examining the proposals, it becomes clear that the committee purchased a greater amount of local flexibility in using the program at a heavy price—the potential waste of millions of dollars. The hasty and ill-advised changes in the block grant program were a major reason for the unanimous minority vote against the bill. All Democrats did vote against the bill.

Title II of the legislation contains reauthorization of our housing assistance programs, and a variety of important changes in the way these programs operate. Of the 150,000 additional units of section 8 and public housing authorized for fiscal year 1982 under the bill, approximately 45 percent would be newly constructed or substantially rehabilitated, while about 55 percent would be existing or moderately rehabilitated. This level of assistance involves about $17.8 billion in budget authority.

The bill also simplifies the manner in which incomes are determined under the assisted housing programs, replacing the current confusing schedule of deductions with standard deductions and providing uniform recertification requirements. These are welcome improvements which should facilitate administration of the programs.

In addition, the bill would raise the tenant contribution for assisted housing tenants, both current and new, to 30 percent of income from the current level of 25 percent. This change will slow the rapid growth in housing assistance outlays while having only minimal impact on the majority of assisted housing tenants.

I think that part of the bill is particularly important because we should recognize that the great majority of poor people in this country are not benefited by this housing program. They are outside the program and they pay an average of 40 percent of their income in rent, not 25 and not 30 but 40 percent. So the relatively few that have access to this housing assistance have a tremendous advantage and an elite status.

In order to get more people into it, it seems to me it is more sensible to permit the level of payment by assisted housing to go to 25 percent and 30 percent.

The bill recognizes that the section 8 program is an enormously costly program, and it attempts to reduce these costs by reinforcing the program's emphasis on "modest design" housing, by giving greater weight to cost considerations in approval of applications for new section 8 development, by reducing payments for vacant units, and by reducing average room sizes.

These and other changes will lower the costs per-unit, and will enable us to serve a greater number of households for the

money provided. I should note that these provisions enjoyed wide bipartisan support.

The bill also addresses the serious impact that rent controls on new construction can have on new apartment construction.

I think everyone who serves in this body is aware of the effect of rent controls. There is a divided Senate, I am sure, on the issue, but many of us feel it has greatly inhibited construction. What this bill does is withhold section 8 new construction funds from communities which impose rent controls on newly constructed or vacant multifamily units.

Most committee Democrats strongly oppose this amendment. I personally supported it. While it will be argued that this provision unfairly penalizes the poor in areas with housing shortages, it seems to me that rent controls contribute to shortages, which penalizes all low income renters, not just those who would expect to receive section 8 assistance. If we can induce localities to remove rent controls we would spur new apartment construction and thus help relieve shortages.

Let me say that the provision does not withhold all section 8 assistance, just that for new construction and substantial rehabilitation. Existing and moderate rehabilitation subsidy would still be made available.

In the area of Federal housing insurance programs, the bill would extend for 2 years, in most cases, insurance authorities for both single and multifamily FHA programs. These extensions are necessary to prevent disruption of these programs which can mean so much for renters and homeowners of moderate incomes. The bill also raises loan limits and lengthens loan terms for FHA property improvement and manufactured home programs. These increases would reflect significant costs increases that have occurred since loan limits and terms were last increased.

Title IV of the bill would establish a new program of nonjudicial foreclosure for multifamily residential and nonresidential mortgages held by HUD under title II of the National Housing Act or under the section 312 program. I believe that the procedures outlined in this title accomplish the purpose of facilitating HUD acquisition of defaulted properties, while protecting the rights of the owners of these properties. Since substantial damage can occur to a property between the time it defaults and the time that HUD acquires it, this streamlined procedure can lower the cost of rehabilitation and resale by the Department following acquisition.

Mr. President, before I close let me indicate that while this legislation complies with the budget reconciliation instructions, it still involves some $22.5 billion in budget authority for fiscal year 1982. This is an enormous sum, and in light of the tremendous budget deficits that we are likely to see over the next several years, if the administration's proposed economic program is adopted, I do not believe we can point to the legislation as an example of fiscal restraint. I regret that greater savings will not be made because I feel that several areas could have absorbed reductions without causing any serious consequence. This legislation turns the housing and fiscal needs of the Nation on their respective heads. We need better targeting for the poor of the limited resources we have. What we have here is enormous sums of money to the States without any standards. This insures that on the basis of experience the money will be wasted.

Talk about Government waste, this legislation will build waste with our $22.5 billion housing program.

Mr. President, in closing, let me emphasize that I have enormous concern about the overall impact on this bill. I know that my concern is shared by many Members on my side of the aisle. If we cannot change this legislation to reflect our concerns, I do not see how many of us will be able to support its passage.

Mr. President, I know of no Senators on our side who want to speak at this time, but I would like to put in a brief quorum call, if the manager will permit, to give other Senators the opportunity to come to the floor at this time before I propose an amendment.

Mr. GARN. Mr. President, the bill before the Senate today is a major redirection of Federal housing and community development programs which will enhance the principles of federalism by giving the States and local governments more flexibility and which will meet the economic necessities of slowing the accelerating growth of program costs. The mandate of November's elections calls for more efficient Government that avoids unnecesary costs and burdensome regulations while continuing to meet basic problems of the country and its citizens. The Banking, Housing and Urban Affairs Committee has accepted that challenge and has streamlined Federal housing and community development programs. At the same time, S. 1197 maintains the framework of support for communities to meet their development needs and of expanding subsidies for the housing needs of the poor.

In the area of community development, title I of the bill largely incorporates the President's recommendations to strengthen the principles of federalism by simplifying and deregulating the community development block grant program and by allowing State governments a role in administering grants to small cities.

These amendments maintain the current purposes of community development support which are to achieve "the development of viable urban communities, by providing decent housing and suitable living environments and expanding economic opportunities, principally for persons of low- and moderate-income." However, growing administrative, regulatory, and procedural hurdles placed in the path of local governments seeking "entitlement" grants will be greatly reduced. Thus the bill will return this program to the original intent of a block grant which sets forth broad guidelines of community development aims and gives localities a flexible role to meet their needs in the manner they determine is best and most appropriate to local circumstances.

The bill gives States an option of administering community development funds for small cities. This is in recognition of the fact that many States have community affairs departments, activities and programs that support community development, and far greater ability to assess the appropriate priorities between competing small city development needs than Federal bureaucrats directed from Washington. To insure that small cities do continue to get the full benefit of the assistance provided, States must pay for administrative costs to run the program, consult with small city local officials, have community development planning and match 10 percent of the funds with State community development assistance to small cities. If a State does not choose to meet these requirements, then HUD will continue to award and administer grants from the funds set aside for the State's small cities.

Title I of the bill also continues the urban development action grant (UDAG) program at a level of $500 million for 2 years. The program has supported innovative economic development projects in many, many cities and in the committee's judgment should be continued for the 2-year period the bill covers for other programs. I know, however, that the committee will carefully review the administration's recommendations for this program for fiscal year 1983 based on a complete evaluation of its effectiveness which is now underway.

Mr. President, turning to housing assistance programs, the bill will reduce the rapid growth of costs for subsidized housing and better target the programs to help those most in need. I consider these changes to be essential to pursuing a housing assistance policy that the country can afford while compassionately recognizing the needs of the poor.

Significant steps toward controlling housing program costs are needed now to make progress toward budget control. These programs commit the Government for decades ahead to substantial growth in housing subsidies. Already these commitments total nearly $240 billion and even without the additional authorizations in this bill outlays will grow from $6.5 billion in fiscal year 1981 to over $9.6 billion in fiscal year 1986.

S. 1197 will slow the growth of costs through several significant steps. First, new authorizations for housing assistance are limited to $17.8 billion for fiscal years 1982 and 1983. This will provide housing aid for 290,000 more families beyond those already helped. Second, the committee has adopted the administration's recommendations to increase tenant rent over 5 years to 30 percent of income from the current 25-percent standard. This is justified because tenants in nonsubsidized apartments pay for more than 30 percent of their income for rent and outlays for subsidized housing will be reduced over $1.4 billion in fiscal year 1986 from this change. Finally, the bill makes tight program improvements which will reduce the cost of each additional housing unit so program funds can help more families.

The bill also will focus limited housing

funds on those who most need aid. Currently most of the 30 million eligible families get no help at all while a lucky few receive large subsidies. With the costs of the programs there is little prospect of ever being able to help all these families arbitrarily defined as eligible so the bill reduces the income limit to 50 percent of the median income in the area. This reduced limit is substantially over the poverty level in most areas. I also point out to my colleagues that even last year the democratically controlled Senate adopted a reduction in eligibility limits.

As chairman of the Banking Committee, I believe even greater improvements in the efficiency of housing assistance programs are needed. The committee will continue to examine improvements in the delivery mechanism such as through housing block grants. Reductions in mandated costs, which include such measures as excessive minimum property standards and Davis-Bacon wage requirements, appear essential to make these programs more efficient. The committee will also look at ways of financing subsidized housing, including the current practice of using the Federal financing bank for the public housing program.

Other provisions in the bill affect FHA mortgage insurance programs, rural housing programs, and miscellaneous programs in HUD and I believe these are noncontroversial.

Mr. President, I think it is important to point out to the Senate that this bill meets the reconciliation targets adopted by the Senate. Furthermore, unlike longstanding past practices of annual reauthorizations for FHA insurance and other housing programs, this bill provides a 2-year extension of these programs so the committee and the Senate can more effectively spend time next year considering program oversight and improvements.

Finally, I commend Senator LUGAR for his diligent work on this bill as chairman of the Subcommittee on Housing and Urban Affairs and Senator ARMSTRONG for thoroughness and thoughtfulness of his proposals to improve the housing programs, many of which are incorporated in the committee bill.

UP AMENDMENT NO. 129

(Purpose: To amend title I of the bill to retain existing law with respect to community development applications and distribution of funds)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 129.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading be dispensed with. I shall explain the amendment.

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

The amendment is as follows:

Beginning with page 4, line 5, strike out all through page 12, line 14.

On page 12, line 16, strike out "SEC. 103." and insert in lieu thereof "SEC. 102.".

Beginning with page 14, line 6, strike out all through page 18, line 9.

On page 18, line 11, strike out "Sec. 105." and insert in lieu thereof "SEC. 103.".

On page 20, line 4, strike out "SEC. 106." and insert in lieu thereof "SEC. 104.".

On page 20, line 11, strike out "SEC. 107. (a)" and insert in lieu thereof "SEC. 105.".

On page 20, strike out lines 18 through 22.

On page 20, line 23, strike out "(2)".

On page 21, line 2, strike out "; and" and insert in lieu thereof a period.

On page 21, strike out lines 3 through 11.

On page 21, line 13, strike out "Sec. 108." and insert in lieu thereof "Sec. 106."

On page 30, line 24, strike out "SEC. 109." and insert in lieu thereof "SEC. 107."

On page 31, line 19, strike out "SEC. 110." and insert in lieu thereof "SEC. 108."

On page 32, line 2, strike out "SEC. 111." and insert in lieu thereof "SEC. 109".

Beginning with page 32, line 6, strike out all through page 34, line 15, and insert in lieu thereof the following:

TECHNICAL AMENDMENT

SEC. 110. Section 102(d) of the Housing and Community Development Act of 1974 is amended by striking out "103(a)(1)" and inserting in lieu thereof "103".

On page 34, line 17, strike out "SEC. 113." and insert in lieu thereof "SEC. 111.".

(At the request of Mr. CRANSTON, his name was subsequently added as a cosponsor of the amendment.)

Mr. PROXMIRE. Mr. President, this amendment would strike the substantive revisions of the community development block grant program contained in title I of the bill.

That title, it seems to me, properly could be called the Waste, Fraud, and Abuse Promotion Act of 1981, because if this bill goes through, on the basis of the General Accounting Office report, that is exactly what we can expect, inasmuch as they have documented the fact that even in the present program—which does require some degree of accountability—we have had abuse.

As the New York Times has pointed out, and I have referred to that editorial, if we let the animal off the leash entirely, we can certainly expect that the abuse; without accountability, without requiring any reporting, without even the effective discipline which we now have in the bill from the people in local communities, we can expect even greater abuse.

I offer this amendment because I strongly believe that the revisions contained in this legislation would drastically reduce the effectiveness of the community development program and cause the waste of millions of dollars of the taxpayers' money.

These changes, which upset the law's careful balance between local discretion and advancement of national objectives and which throw out provisions essential to assuring the proper use of public funds, were the major reasons why every member of the Banking Committee minority—every Democratic Senator—voted against reporting the bill. In fact, Mr. President, I am surprised that my Republican colleagues, so long the defenders of fiscal responsibility, would advocate provisions that contain such potential for the waste and abuse of the program's limited funds.

The changes the bill would make to the block grant program are dramatic and far-reaching: No longer would there be an application for CD funds explaining to HUD and to the public how a grant will promote a comprehensive strategy for community improvement.

In other words, that would not be necessary any longer. No longer would the applicant have to explain to HUD, explain to the Federal Government, in return for getting this money, these billions of dollars, how the grant would promote a comprehensive strategy of community improvement. If we lessen that kind of accountability, it is hard to believe that we would get the same kind of effort directed at solving the problem.

No longer would the Secretary be able to disapprove an application that would use funds in a manner clearly inconsistent with the purposes of the act. It is one of the reasons the New York Times is opposed to it. No longer would there be any formal structure for broad citizen participation in the community development planning process.

That is an element of control, to see that. Particularly in blighted areas, we have found a remarkable citizen response. We certainly have in Milwaukee, in Madison and other parts of my State, and I am sure it is true throughout the rest of the country: In areas where you have a great deal of poverty and where they normally are far less articulate, we did find leaders who would come forward and indicate their concern. Because of that, they would apply a degree of restraint and a degree of pressure to see that the program did serve the interests of the poor and of the low-income people.

Mr. President, while the bill would eliminate the application process, it would also weaken the Secretary's ability to conduct performance reviews which would be the only remaining method to assure that the taxpayers' money is not wasted.

Mr. President, you would normally think that, when you reduce these so-called requirements of accountability, the mayors and the communities and the counties and so forth would say, "Hooray, we do not want this redtape, we do not want to have to make this accountability." The fact is that title I is opposed by the National League of Cities; it is opposed by the Conference of Mayors; it is opposed by the National Association of Small Communities; it is opposed by the National Association of Counties; it is opposed by the National Association of Housing and Redevelopment Officials; it is opposed by the Work-Group for Community Development Reform; it is opposed by the National Low-Income Housing Coalition; it is opposed by the National Association of Neighborhoods.

The latter groups, I suppose, you might expect. But when you have a program of this kind opposed by local officials—including the mayors, including the counties—particularly when you have a situation where they did not really have an opportunity to testify—because, as I say, these proposals came up the very day they appeared. They had no chance

to check it with their membership, no chance for careful analysis, no chance for preparing statements in opposition—no wonder they opposed this kind of drastic and radical change.

I think it is to their credit that they indicate their opposition, although it would require a greater degree of accountability on their part.

The bill would also interpose State bureaucracy between HUD and small cities, by giving States the opportunity to receive the money from HUD and pass it on to small cities. For small cities, the link between CD grants and housing opportunities for low- and moderate-income people would be broken since these cities would no lcnger be requqired to accept such housing as a condition of their CD grant.

Mr. President, does anybody really think that many of these cities will provide housing opportunities for low- and moderate-income people, when they have resisted strongly? They have finally given in in many instances because that is the only way they would get housing money. When they do not have to comply, does anybody think the fundamental purpose of getting housing for low- and moderate-income people is going to be served by cutting the link?

Mr. President, my amendment is very simple: It would strike these changes in the CD law, and thus retain the current law. Current law results from a long history of carefully crafted compromises designed to strike a balance between local discretion in the use of funds, and appropriate Federal review to assure that the purposes of the program are carried out.

I believe it is vital that the Senate support my amendment for several reasons. First, the specific changes contained in the reported bill were the result of a hurried push by the Banking Committee majority to implement administration recommendations without benefit of adequate hearings and deliberation. As I noted in my opening statement, the proposals arrived at the committee a few hours before the scheduled hearings, and only a few days before the scheduled markup. The many organizations with important interest and expertise in the subject had no worthwhile opportunity to examine or comment on the proposed changes before the committee met to consider the legislation.

This brings me to my second objection: That there has been no evidence presented that these changes are necessary or even desirable for an effective community development program. True, we have heard complaints about overregulation and excessive zeal on the part of some HUD officials, and that the Department's regulations are difficult to comply with. But, these are primarily administrative problems that should be addressed by HUD. After all, those complaining so loudly about regulatory abuses are now in control of the regulatory process.

Who is running the show up there? Who is President of the United States? Who is Secretary of HUD? The Reagan administration is in charge, in firm charge, of the executive branch. If there are administrative difficulties, they can certainly solve them and they can do it without gutting this law.

Mr. President, I question whether there was a need for the kind of major statutory changes called for in this bill in order to make the CD program more responsive. Interestingly enough, my view was shared by the U.S. Conference of Mayors—the very group that we might expect to be most interested in a reduction of the Federal role in the CD program. In its letter to the committee expressing its concern about the committee's hasty action in marking up the bill, the conference stated that:

> We would like to emphasize that our members repeatedly have told us that the principal problems they have had with the CDBG program have stemmed from the regulation imposed in recent years which far exceed the intent of the statutory language.
>
> As we testified before the Subcommittee on Housing and Urban Affairs in 1980, we believe that the current statute is basically sound.
>
> What they are saying is:
>
> Yes, indeed, we would like to have the regulations simplified and clarified, which the Reagan administration can do without any change in the law, or without action by the Senate or the House.

But here we are knocking out the safeguards we now have, and it is wholly unnecessary, in the judgment of the people who have to live with this act, who know it intimately because they have lived with it for years.

So even the mayors agree that the problem with the CD program is not the statute—which represents that important balancing of interests—but the way HUD has administered the statute. It would seem more logical for HUD to try to streamline its administration consistent with the purposes of the program, before they come to Congress to claim the essential structure of the program is wrong.

My third objection to the bill's revisions of the block grant program is that they mean abdication of congressional responsibility to monitor the use of Federal tax moneys to see that they are expended in a sound, prudent manner. In this instance, deregulation of the CD program and too great a shift to the philosphy of local control would expose billions of Federal tax dollars to potential waste and abuse. I must again stress that the community development program represents a careful balancing of local discretion with Federal objectives. Restriction of the Federal role in this program will turn community development into revenue sharing with little ability to assure that Federal funds are used to carry out the purposes of the program. It was never intended that the community development program be a revenue sharing program.

Our former colleague, Senator Robert A. Taft, Jr., who was a good friend of mine at college before we both came to the Senate and who was a fine Senator from Ohio, commented in his views on the Housing and Community Act of 1974. This is what Senator Taft—who, of course, is the son of the late Senator Robert A. Taft, who was a Presidential candidate—said:

> A clear Federal directive is needed which channels (but does not mandate specifically) the use of funds. . . . I consider strong Federal directives for the program not to constitute support of bureaucratic "second guessing" but rather to be a necessity for fulfillment of the Federal responsibility to the taxpayers to promote the use of the money in as productive a manner as possible.

That was said by former Senator Robert A. Taft, Jr., of Ohio, a Republican, in stating his opinion when he was a member of our Banking Committee in 1974.

Mr. President, I believe that the statute as currently structured carries out Senator Taft's idea very well, and there is no compelling need to tamper with it to reduce the involvement of the Federal Government.

In fact, if there is any need to change the statute that governs the CD program, it should be in the direction of tighter, not weaker, Federal control. The GAO recently did a study for me of the effectiveness of the CD program in revitalizing America's cities. The results of their study are particularly alarming in view of the impact of the changes that this bill would make to the CD program. GAO found that HUD should require greater targeting of CD funds within communities if we are to have an impact on revitalization. Greater targeting, not less; not abandoning all targeting. Too much CD money is used for activities that have little relation to a community's real needs. Income limits have been too loosely set in some communities, and there is often no consistent pattern to the use of funds.

In summary, while the administration and the majority on the Banking Committee are calling for relaxation of the CD requirements—or as the New York Times said, letting the animal off the leash entirely— GAO says that Congress ought to take a hard look at the need for additional controls. I am not saying here that GAO is totally right and that we ought to legislate more controls on the program, but we have been put on notice by GAO that the direction in which this bill would take us is fraught with danger.

It is my view that the Senate, and the Banking Committee should reexamine the CD program to see how it could be made both simpler and more effective. Neither the bill before us, nor the process that produced it, have contributed to that goal. My amendment would retain current law.

Let me stress that. If my amendment is adopted, it does not mean we throw out everything. It means that we retain current law, which we have lived with and worked out, which is supported by the mayors and the counties, by those who work most closely with it. It would allow HUD and the committee the time to accomplish a more thoughtful and comprehensive analysis of the program.

I urge my colleagues to support an effective community development program by voting for the amendment I have proposed.

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

The PRESIDING OFFICER. Is there

a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LUGAR. Mr. President, I oppose the amendment offered by the distinguished Senator from Wisconsin. It is an important amendment, because it addresses, I suspect, the basic change which the Reagan administration and Republicans on the Banking Committee have attempted to bring not only to title I but also to this entire legislation.

The Senator from Wisconsin has attempted to make the argument that, essentially, title I of our bill lets potential fraud off the leash—and he has cited the New York Times—and the general feeling that by failing to have applications that were of the order that the present legislation calls for, we would bring about mismanagement and the type of difficulty the GAO report describes, which the Senator from Wisconsin has illustrated with dramatic examples.

First of all, I simply wish to make the point that nothing in the bill we are discussing today, S. 1197, makes any change in the accountability of any government with regard to the expenditure of funds. As a matter of fact, the audit procedures have not been changed. I repeat that, because I believe there must be some misunderstanding that whereas in the present situation people are accountable, in the future they would not be.

I cite for the benefit of the record the excellent report which was established by the committee in preparation for this debate:

> For entitlement communities, the Secretary's review is conducted to determine whether the grantee has carried out its activities and its housing assistance plan in a timely manner and consistent with the three broad objectives of the Act cited in Section 104(b(3)—

I point out that those three broad objectives have remained the same from 1974 right through this current draft. There is no change in those objectives.

> Whether it has carried out those activities and its certifications in compliance with the requirements of Title I and other applicable laws, and whether it has a continuing capacity to carry out those activities.
>
> The Secretary's review of states which elect to distribute funds determines whether the funds had been distributed to localities in a timely manner and in conformance with the system described in its initial statement. In addition, HUD determines whether the state had carried out its certifications in compliance with Title I and other applicable laws and had conducted appropriate reviews of units of general local government receiving assistance from the state.
>
> The Secretary is authorized, where reviews determine that performance did not conform to the requirements, to make appropriate adjustments in future grants or state allocation amounts. With respect to assistance made available to units of general local government under section 106(d), the Secretary is authorized to adjust, reduce, or withdraw such assistance, or take other action as appropriate in accordance with the Secretary's reviews and audits. The Secretary is also authorized to provide such assistance directly to the units of general local government in the event that the Secretary found the state's action to be unsatisfactory with respect to allocating and administering funds. However, funds already expended on eligible activities under Title I would not be recaptured or deducted from future assistance to such unit of general local government.

Mr. President, that is not a change; that is the law. That is precisely what is in S. 1197. Any argument that S. 1197 makes fraud more possible and misspending more possible is simply erroneous.

It misses the fact that the audit procedure is identical.

If GAO finds difficulties, those difficulties might very well recur unless for some reason the new Secretary of HUD runs a more efficient shop.

It is not my purpose to engage in partisan rhetoric in the course of this discourse, but I might point out that the deficiencies that GAO found were found in a past administration and in audits conducted by that administration.

We are not suggesting that the audits be loosened. We, as a matter of fact, would commend to the Secretary of HUD the need to take to heart the deficiencies found by GAO in the administration of the past. But to somehow use those deficiencies as a way of discrediting S. 1197 is really to distort history very substantially.

What really is at the heart of this dispute on the amendment of the Senator from Wisconsin comes down to this word targeting and really who will determine priorities in a community and with what degree of labor those priorities will be obtained.

Mr. President, this act that we amend today commenced in 1974. The UDAG program was the successor for seven broad community development programs that were brought together into one. In 1974 there were communities such as Salt Lake City served by the distinguished chairman of our committee, Senator GARN, and the community in Indianapolis that I served as mayor at that time. I simply say during the committee deliberations we testified with some degree of expertise having been there, having filled out the forms. I suspect there are relatively few persons in this body among our colleagues who have had such a dramatic experience as taking a look at 2,600 pages of forms that the application contained in those days.

At one happy moment, and I have cited this in our opening statement, under Secretary Carla Hills and Assistant Secretary David Meeker, the application pages went down to apparently the low water mark of 52, not 2,600 but 52. During the markup we had a dramatic illustration of all of the equipment, all of the pages that used to be involved in making application for one of these things, stacks of books on top of each other, that actual mayors, actual councilmen, actual local governmental officials in this country faced because of action or inaction on this floor. We so seldom know the implications of what we do and the mischief it causes. But it was remedied by Miss Hills and Mr. Meeker, and 2,600 pages came down to 52.

Now, sadly enough, Mr. President, during the past 4 years the 52 has become 2,200. It is no wonder that the Reagan administration coming in now objected to 2,200 pages. I wish to make absolutely certain in our graphic senses we see the evolution of 2,600 pages down to 52, but during 4 years of the past HUD administration, back up to 2,200.

That really does not bring about any decrease in fraud. What it does bring about are headaches all over this country and it was not by accident all the pages accumulated. The pages accumulate because of targeting the desire on the part of the Federal Government to make certain that it intrudes in every process known to man and woman with regard to the application of UDAG. It is bureaucracy run amok. It has nothing to do with fraud. It has everything to do with people tinkering in local government.

Mr. President, this is an honest argument and there are many persons in our country who, as a matter of fact, believe the Federal Government knows best. If you are a true believer in the Federal Government and its intrusion you would be in favor of the 2,200 pages also. This is the way that we on the Federal side exercise our will.

The argument we are having today on title I comes in the simplification of the application, not in the audits, not in the antifraud provisions, but in the application. We are saying the application ought to be simple. It ought to hit head on the general objectives of this legislation to help poor people, to help provide decent housing to the poor, to focus our objectives on those who are of poor or at best moderate income in community development activities.

Those have been the objectives from the beginning and they are the objectives now, unchanged.

But it makes a whale of a lot of difference how you approach that application situation. I am sorry that in the markup it seemed to become a partisan matter, but so be it. We had an election last November. At least some of us felt the public said we have had enough of overregulation, bureaucracy run amok, control on top of control and we would like somebody to get in with the scissors and start cutting the pages out, and that we have done, the minority may feel with a vengeance, but I say with very great constructive intent and with deliberate speed.

I was surprised to hear the testimony of the U.S. Conference of Mayors. I have served as a member of the board of trustees of that body. I am well acquainted with most of the present membership of that board. I simply say that I do not know many mayors who in their heart of hearts are eager to have 2,200 pages as opposed to 52. In fact I became very suspicious of activity of that variety produced on the day of a markup and I suspect that in the leadership of that particular group there were a number of persons who simply, as a matter of fact, really like the old regime. As a matter of fact, we are a part of the old regime. But I simply say that is not the regime that came in with the election of 1980. And we are determined really to say to the country that it is time we went back to the spirit of the law of 1974 and that was a law that was fashioned by a Congress that had Democratic majorities on

both sides of the Capitol and a Republican administration, but it was an honest attempt to reduce Federal regulations and to bring about an application that gave local governments a clear shot at trying to meet these broad objectives of assisting poor people and bringing about standards of decent housing for the poor, and then provide for stringent audit by HUD which has remained ever since to make certain those objectives were fulfilled.

Let me comment briefly on the quotation that Senator PROXMIRE offered from our former colleague, Senator Bob Taft. Senator Taft's comment as quickly as I could transcribe it from Senator PROXMIRE's speech, talked about channeling rather than directing funds as the congressional responsibility, and clearly that is. Our responsibility here today is to try to think of how we are going to do some things about housing for the poor, about community development generally, to offer channels for that to occur. We are offering in this bill an exemplary attempt to give every citizen of the community the right to know the possibilities, the right to participate in the public hearing to be heard about those possibilities, the ability of local officials to respond to those citizen thoughts, and for procedures with local elected officials to move ahead, audited by HUD to make certain they met the general objectives.

That I think is constructive challenging and I believe would fully fulfill Senator Taft's ideas and ones which we on the majority side of the committee share.

Let me add just this final thought about the title I issue: I appreciate that this is a useful debate even if there is a difference of opinion because I think it highlights dramatically the difference between the view of federalism that the majority of the committee holds and the view of federalism which a part at least of the committee holds.

The view the majority hold on S. 1197 reflects this, and that is that there ought to be a maximum amount of local decisionmaking.

Most of us in public life, Republican and Democrat alike, have given speeches in which we have extolled the virtues of grass roots democracy, and we have pointed out how great it is to give people the right as locally elected officials, with public hearings, the grass roots opportunity to do what they wish.

Now we believe as a majority in actually implementing this when we have opportunities in statutes, and this is one of the first ones to come down the pike, and we have seized that opportunity, I think with enthusiasm.

The minority would have preferred, and may still prefer, simply to defer that debate altogether.

During the markup there was a complaint by the minority, which is repeated today, that there is so little time to think about all of this. Well, as a matter of fact, this has been a debate of our Republic for 200 years.

One does not need a whole lot of preparation to try to come to some determination as to what you think the role of the Federal Government ought to be vis-a-vis States and local governments. For our part we came fully prepared to debate that issue. We think the role of the Federal Government ought to be less. We think the application ought to be simple. We believe that the audit of moneys ought to be stringent.

I think it is a very clear-cut and concise policy which makes sense. I think the minority simply did not know what they wanted and stalled for time.

They may still, as a matter of fact, be calling for more time to regroup, to try to think through how you can have your cake and eat it, too. It is awfully hard to argue in favor of 2,200 pages and, at the same time, argue in favor of stronger local discretion. It simply will not sell.

Mr. President, I am hopeful that the amendment will be defeated soundly; that, as a matter of fact, we will proceed with title I in our bill, S. 1197. It makes a remarkable change. It sends the right signals to the country that we mean business and that we are prepared to try to give local discretion a chance.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER (Mr. D'AMATO). The Senator from Utah.

Mr. GARN. Mr. President, I rise in opposition to this amendment. I certainly want to commend my colleague from Indiana for his excellent statement in opposition to this amendment, and I do not need to repeat what he has said because he has done it so adequately, except for one thing that I think needs to be emphasized.

As I look at the "Dear Colleague" letter from Senator PROXMIRE and others, the first paragraph really disturbs me because it simply is incredibly misleading. If you want targeting that is one thing. If you want more rules and regulations imposed on the mayors of this country, fine, and you can be for that. I do not happen to feel that way. It says:

> We intend to offer an amendment to overturn the Committee majority's action to strip the Community Development Block Grant Program of protections against waste and abuse.

Senator LUGAR mentioned that and he quoted the law. Everything else in the Dear Colleague letter is fine. The minority is entitled to their opinion. But as far as waste and abuse, the provisions we change have nothing to do with it whatsoever, and it needs to be emphasized that that is misleading to our colleagues. The auditing procedures are identical. That is a matter of HUD enforcing those auditing procedures. If there has been waste and abuse that is at HUD's doorstep. The changes we make have nothing to do with that. That must be pointed out.

To the staff who are listening to the squawk boxes before their Senators come out to vote on this amendment, let me say let us separate that issue out and get it to the point of whether we want more control over the mayors of this country or not. But let us not mix it up with fraud and abuse. The law is the same. I hope that point has been made clearly and sufficiently.

Let me also speak in opposition on a more general front. Fourteen years ago I was elected to the Salt Lake City Commission. It only took me about 3 weeks in office to start being discouraged with HUD.

For my entire 14 years in public office I have seen HUD grow with more and more controls, always with the excuse that they must dictate, they must target, they must decide what the purposes are.

My distinguished colleague from Wisconsin has heard this speech many times. I could sit down and he could give it for me. But, nevertheless, I will force him to listen once more. It is simply a matter of are we going to trust locally elected officials who are accountable and responsible to the voters in their cities or are we not? That has been an issue that Senator LUGAR and I have wrestled with for a long, long time because both of us served as mayors of our cities, as he said. Both of us served as officers of the National League of Cities, and both of us came back to testify time and time again before the congressional committees, before the Banking Committee, which I now chair, before the Finance Committee and the House committees. It was really rather demeaning to come back as an elected mayor of your city, having experience with local governmental affairs, working daily on housing and sewer and water and police and fire and all those services that are absolutely necessary to be provided from local governments, and be given 10 minutes to testify and be told "bring copies of your statement and we will ask you a few questions." This distinguished body of Senators, who have never had any of that experience would pat you on the head and say, "Go home, good mayor, and we will decide what is best for you."

Well, I am amazed that after all these years and all this money that has been spent by HUD, with so little effect across this country, that that philosophy still continues. That is one of the reasons why I ran for the Senate. I was tired of being treated like a little boy from the country, and decided that I should try to infiltrate. Maybe if I came to the Senate I could have some impact. But there are still those who think the collective judgment of 585 Congressmen and Senators somehow is better than the judgment of a mayor or city council elected in their city.

Again, most of those elected to the Congress have had no local government experience at all. Most of them came from law offices. We have got 70 lawyers in here, 71, I do not know, but certainly not too many who have actually been at the receiving end of HUD.

The reason I have to present this speech over and over again—and if I have to do it for the next 10 or 20 years I am going to do that—is because what happens in the implementation of the policy is Congress makes these policy decisions and they turn them over to HUD, and then we have GS–8's, 10's, 12's, and 15's, who are never accountable to any place in this country, creating these 2,600 pages of rules and regulations that Senator LUGAR talked about.

Just think of that. There is no doubt the Senate did not intend that at the time this act was created, but try to think of yourself as a mayor trying to

figure out those 2,600 pages. Think of the time and effort and wasted local taxpayers' dollars trying to satisfy these managers at HUD.

I have said many times we were not really mayors, we were the local managers for the Federal Government. But it was not even Congress that was really dictating to us. They were passing the buck to the bureaucracy and then the Federal civil servants, who have the next closest thing to eternal life you will ever find on the face of this earth. They are locked in where new Senators and new Presidents are only a minor irritation to them, and can yet create these page after page of rules and regulations.

Well, I finally started turning down Federal grants because they were to expensive to follow the rules and regulations. I turned down one-half of a million dollars of CETA funds the last year I was mayor.

So finally we have a majority in the Senate of the United States that really does feel we can trust some of these local government officials, and that we can get more for our dollars, more for the poor and the minorities, more in housing if we remove some of the strings.

So, yes, this is a very vital piece of legislation. And it certainly has not been dreamed up in the last 2 or 3 months. Some of us have been talking it for 6 years. It is not off the top of someone's head. Those of us who have worked with the A–95 review process and the application process I think are qualified to make some changes, to at least suggest some changes.

So this is an important debate today because it basically boils down to: Are we going to continue the dominance of Congress? The waste and inefficiency that has occurred in HUD over the last decade is a disgrace, primarily created by Congress. And now we are being told that it has worked so well let us continue it; do not change; do not let these locally elected officials have some discretion; continue to dictate to them.

And that is supposed to be efficiency. Hindsight is 20/20. I would suggest that the Senate look at the record of HUD and find out some of the abuses that are there. But you cannot blame it on the application process. That is part of the problem.

I do not know of any debate that I can think of that I feel more strongly about than this one. This amendment must be defeated. A very important principle that we are dealing with today is whether we continue to allow nonelected bureaucrats to make decisions for the cities and counties and States of this country, or are we going to turn some authority back. We should do this because you know there is a good, old-fashioned system in this country: If you do not like your local mayor, you can get a new one at the next election. But I would like someone to tell me how you get rid of the regional director of HUD in Denver, Colo., or any of the people who are sitting over there year after year, telling us how to run our cities.

So this is far more fundamental than what Senator PROXMIRE is talking about today. It is much deeper. It goes to the much more important subject of do we continue to centralize decisions in Washington, do we continue to have Senators with no local government experience decide what is best for 80,000 units of local government in this country, or do we give general, broad policy guidance to the cities and let them work within that framework, while still maintaining the control, as far as fraud and abuse?

I hope this amendment is overwhelmingly defeated, as it should be.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Thank you, Mr. President.

Mr. President, I rise in support of and am pleased to cosponsor the amendment being offered by the Senator from Wisconsin.

I would like to compliment the distinguished Senator from Utah and the distinguished Senator from Indiana for the work they have done on this legislation. I would respectfully like to try and bring the debate on this amendment back to center, however, and discuss what is at stake in this amendment.

I believe that the provisions in the bill represent substantial change for the worse in terms of our ability and the ability of our cities across this land to effectively deal with the statutory mandate as dictated by the community development block grant program when it was established in a bipartisan way back in the early part of the 1970's, beginning in the Nixon administration and carried forward in the Ford administration and, over the past several years, in the previous administration.

Mr. President, the committee bill calls for some very significant changes in the application and review processes under the community development block grant program.

These proposals could have the effect, I believe, of diluting the targeting of Federal resources at a time when these funds are decreasing and are being subjected to increasing demands at the local level as a result of reductions and terminations in other programs whose functions are to be absorbed within the community development block grant program.

Under the present law dealing with the block grant legislation, applicants are required to undertake a multiyear planning process and develop a comprehensive local strategy for meeting community development and housing needs which relate to the primary purposes and objectives of the program.

An application may be disapproved if a community's statement of need is plainly inconsistent with the available facts and data; if the proposed activities are plainly inappropriate in meeting the applicant's needs; or if the applicant proposes either ineligible activities or the program as a whole does not represent an adequate response to meeting the needs of lower and of moderate income persons in the community.

Those are the two income groups which were specifically designated in the original legislation to be assisted by this program.

In sum, Mr. President, the current application requirements and review process provide for maximum local flexibility in the definition of needs and response, within the context of broad national priorities and the general requirement that funds be expended so as to produce measurable results in response to locally identified needs.

Certainly, Mr. President, the authority that was created under this legislation may have been construed in recent years to require the imposition of excessive Federal requirements and directions. And I would agree with the two previous Senators who have spoken, Senator LUGAR and Senator GARN, that there has been an unfortunate increase in the number of regulations and directions coming out of HUD.

But what I am suggesting, and I believe what the Senator from Wisconsin is suggesting, is that let us deal with that problem. If there has been tinkering with the legislation so as to create problems at the local level—and we do have an administration presently in office which is committed to trying to reduce the intrusion of Federal regulations—then let us deal with that problem.

But what is presently in the bill and what we are trying to correct is to avoid any changes in the community development block grant program that would weaken the purpose of that legislation as it was designed in the very first instance. If we want a revenue-sharing program here, then let us do that.

But I do not think that was the intention of the original sponsors or the people who are deeply committed to seeing something done at a time of limited resources, with slums and blight in our cities across this land.

What concerns me, Mr. President, about the pending changes in the committee bill is the fact that we are embarking, frankly, on hastily conceived and considered statutory modifications before there has been any evaluation of the present administrative regulations and procedures.

We have heard the rhetoric about how many pages of Federal regulations the people have to deal with. Mr. President, I am not going to argue with that. But let us look at what these regulations are, and if there are some bad ones then get rid of them.

But we are making a decision here today without really determining whether or not some of the provisions that are in those regulations are, in fact, the kind of regulations that are going to provide some assistance for people in this country. That is what we ought to be doing.

This Congress is only 5 months old. We went through the markup of the legislation in a couple of days. We really did not get a chance to look at whether or not the administration was really going to try and do something about the regulations.

The Senator from Wisconsin asked for a General Accounting Office study to be done to assess whether or not the present law is working and how it is operating.

They came back and said it is not tight enough because taxpayers' dollars are being wasted in local communities across this country because they are not meet-

ing the needs that this legislation was designed to address when it was originally enacted.

That is what we ought to be doing, if we are going to be responsible about dealing with the housing problems—and that is what we are dealing with here today, the housing problems of low- and moderate-income families in this country. That ought to be what we are trying to accomplish.

So, Mr. President, the obvious problem, as I have mentioned, with this approach is that we are without a statement of locally developed need and a strategy for meeting that need on a multiyear basis.

I believe that it is impossible to determine whether a community's annual statement of objectives and activities represents a valid response to local conditions. In addition, how can we insure that limited funds—and we are going to be dealing with limited funds and everyone in this body knows that—are being focused on national priorities?

Again, that was part of the original legislation in this area and, again, it was a bipartisan effort. We are talking about the Nixon-Ford legislation here. We are not talking about Carter legislation. We are talking about legislation that goes back to a previous administration, an administration that embraced many of the same philosophies that are being embraced today by the present administration.

While I am all for, as I mentioned, increased local flexibility—and I think the overwhelming majority of people in this body support that notion—and certainly in the utilization of scarce Federal resources to give those local communities the options that they should have, my concern is that we should not signal a retreat in Federal concern for the effective utilization and targeting of Federal dollars.

How do we insure that community development block grant funds are being spent in accordance with the program's primary objectives of principally benefiting low- and moderate-income persons without a statement of local need and the ability to measure local objectives against this statement? How do we insure that funds are used over time so as to have an impact without any multiyear planning process or comprehensive strategy?

I would submit, Mr. President, that it would be impossible. We are simply laying the framework for increasing waste and abuse in Federal resources at the very time when we can least afford it. Local communities, in fact, have expressed their opposition to this change.

I find it somewhat ironic that the so-called beneficiaries of the present legislation as it is written are opposed to the very notion. The very communities that we are talking about here today have expressed in a loud and almost unanimous voice that present law is a lot better than what is being offered by the committee bill, and, in fact, they support the amendment being offered by the Senator from Wisconsin and other members of the committee.

They recognize what the problems are at the local level, and almost without exception across this country they have stood up and said, clean up the administration and lessen some of the regulatory requirements.

For these reasons, Mr. President, I would urge my colleagues on both sides of the aisle to show some sense of proportion here, to show some balance, some deliberation, so that we can deal with the community development block grant program in an environment of some rationality.

That we just do not come in without any kind of analysis whatsoever and talk about local communities and flexibility, and at the same time also talk about meeting the housing needs of people in the Nation.

I strongly urge my colleagues to support the amendment offered by the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank my good friend from Connecticut. What he said toward the end of his speech is unanswerable.

My good friends from Indiana and Utah talk about how the local officials want the change, how it is in their interest to have the change. What do they say? The National League of Cities, the Conference of Mayors, the National Association of Small Communities, the National Association of Counties, the National Association of Housing and Redevelopment Officials, the Working Group for Community Development Reform, the National Low-Income Housing Coalition, the National Association of Neighborhoods, and the National Urban League all unanimously, without exception, say they do not want title I adopted in its present form. They support, in effect, the Proxmire amendment.

It may be, as the distinguished Senator from Utah indicated, that Senators who have not served as mayors, and some of us have not, do not know what they are talking about when it comes to this kind of thing. But it is hard to believe that mayors who serve now, who have served under this legislation for years and years, do not know what they are talking about.

They speak, as you say, emphatically and clearly. They reject title I. They do not want title I. They say that the problem is not in the statute. The statute is a statute that they say they can work with. Their problem, they say, is in the regulations.

As I say, the new administration, and I share their view, is an administration that wants to reduce regulations sharply. I agree with that wholeheartedly. They are in office and have the power and responsibility to do it.

For that reason, Mr. President, I would hope that Senators would support this amendment and knock out this change.

My good friend from Indiana indicated that there was, in effect, as I understood him, no real loosening of auditing or control.

Well, Mr. President, I could not disagree more. The fact is in the first place there is no longer an effective requirement for people in the local community to participate in the planning process, particularly the people in the blighted area itself, people who have voluntarily had a part to play in working out these applications in the past. There is no effective provision in this proposed law that they could continue to participate.

It is true that the Sarbanes amendment was accepted in committee. What that amendment does, as we all know, is to require a hearing. It does not say when the hearing will be. The hearing can be after the proposal is all put together. As we know, that may well be the case in some communities where they do not have the kind of regard for the people in the blighted area that they should have.

Mr. LUGAR. Will the Senator yield for a question?

Mr. PROXMIRE. I am happy to yield.

Mr. LUGAR. I would simply raise the question as to how this particular argument pertains to fraud. In other words, how this would tie in with fraud and pertinent to the activities cited in the GAO report?

Mr. PROXMIRE. What that would tie into would be developing a program that really serves the needs of the local community as the people who live in that community see it. It would be quite different. If the Senator wants to know how this would tie in with fraud and waste, I am coming to that.

I do think it would tie into what is the fundamental purpose of this act, the reason we are providing a great deal of money. It is because we want to see that these blighted communities are served. We want to see legislation enacted that permits the people who live in the community the opportunity to speak effectively.

Mr. LUGAR. We have no disagreement on that. We all want to save blighted communities, but the Senator's arguments speak of loosening up the program. There seemed to be an implication that the changes in the application procedure and public hearings would in some way increase fraud or misuse of funds.

The debate we are engaged in is on the manner in which we should direct resources, which is important in terms of allocation, but does not pertain to fraud, review authority, or illegal use of funds.

Mr. PROXMIRE. Let me come to the other point. The point I made still stands. The Senator from Indiana has not shaken it. That was the opportunity for local people in the local community to be heard effectively on the kind of program they will have to live under and the kind of assistance that will be given to the community will not be heard effectively.

Now we come to the other part.

Under the bill as we have it now, as it would change the law, we would no longer have the requirement that performance review addressed where the grantee has carried out a program substantially as described in its application.

As I understand it, the application is designed to be the link between the local program and national objectives.

The part of the law that is knocked out is the part that sets forth that the application set forth a summary of a 3-year community development plan

which identifies community development and housing needs, demonstrates a comprehensive strategy for meeting those needs, and specifies both short- and long-term community development objectives which have been developed in accordance with area-wide development planning and national urban growth policies; second, formulates a program which includes the activities to be undertaken to meet its community development needs and objectives; third, describes a program designed to eliminate or prevent slums and blight, improve conditions for low and moderate income persons residing in or expected to reside in, as a result of existing or projected employment opportunities in the community, housing opportunity plans approved by the Secretary.

All of that which was required to be in the application is, under the title of the bill that is before us, eliminated. It seems to me that this would mean that the money would be far less likely to be spent to achieve the national objectives on which we jointly agree.

That is the part of the bill which I think is a mistake. That is the reason why I think the funds are less likely to be spent in the way the Congress earnestly desire them to be spent.

We do have, as the Senator has indicated, an objective finding and purpose of this bill, which, of course, has far less effective control than requiring that the application include this particular data.

Mr. President, I yield the floor.

Mr. TSONGAS. Mr. President, I understand that there is a time constraint, so I shall try to accommodate the Senate. Let me just make a few remarks, if I may.

COMMUNITY DEVELOPMENT PROGRAMS

Mr. President, for 20 years or so, we spent more money on urban renewal and various other unsuccessful urban experiments than we did to rebuild Europe under the Marshall Plan. We wasted a shameful portion of that money before we settled on a few important principles—principles supported by both Democratic and Republican administrations up to now. Those principles are:

First, target Federal funds to those who lack fiscal capacity to solve their own problems.

Second, use Federal funds to maximum advantage—as glue money for other public and private sector development efforts.

Third, insure that Federal and any other community and economic development funds are used to further a planned strategy for long-term economic growth, jobs and taxes.

In passing the CDBG program 7 years ago, Congress specifically rejected the notion that we create a revenue sharing program for community development, and embraced these principles as an alternative, to insure that the taxpayers' money would be spent wisely and effectively.

Last year, when we reauthorized CDBG for an additional 3 years, we looked at the law with great care. In thousands of pages of testimony on that law, not one word indicates that the law itself places undue burdens on local government. Many would say—and I would agree—that much can be done to relieve the regulatory, policy, and paperwork burdens on those governments without changing the law.

No evidence has been given that we should weaken the law, but evidence recently was given by GAO that we should consider strengthening the law.

No evidence has come forward to indicate that the link between smaller cities and HUD should be changed, or that smaller communities will benefit by changing from an objective HUD scoring system to a State-administered system with no guidelines and unclear controls on allocation of funds.

Now the administration has come forward with a proposal to eliminate application and review requirements. This includes elimination of requirements for a comprehensive strategy, to insure that CDBG funds are spent for solid, long-term economic and community revitalization purposes.

This includes elimination of the requirement that major physical development projects financed by the ACTION grant program be shown to be part of that strategy.

And with no justification, and certainly with no careful consideration of impacts, the administration proposes to give States the option to run a free-wheeling program for small cities.

The few requirements for this State control raise serious questions. For instance, the State is required to provide a 10-percent cash match. Is this 10 percent above and beyond projects already planned? The law does not say. Is this 10 percent to be allocated in proportion to each grant, or only for the first city in line?

Can the State run a long-planned highway through four towns and call it a 10-percent match? The law does not say. The law makes no provision for protecting those small cities which have received 2- or 3-year comprehensive grants, and may face termination of their programs in midstream if the program is taken over by the State. I want to question the distinguished chairman a little further on this specific point, and I hope to do so at some time.

I am strongly opposed to eliminating the statutory controls on expenditure of CDBG funds. I feel confident that we have examined this issue fully and fairly and have found no evidence to make these changes.

I am strongly opposed to transferring the small cities program to the States, because we have had no opportunity to examine the impact of this proposal, and no evidence that this move is warranted.

I ask unanimous consent that a letter on this issue from Mayor Jean Levesque of Salem, Mass., printed in the RECORD at this point.

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

NATIONAL ASSOCIATION OF SMALLER COMMUNITIES,
Washington, D.C., April 16, 1981.

Re proposed transfer of HUD Small Cities Program to the States.

DEAR ——— ———: In testimony given before the House Subcommittee on Housing and Community Development on March 19th, David A. Stockman indicated that HUD is presently considering transferring the C.D.B.G. "small cities" Program to the states in 1982 in order to more completely centralize this program.

As Chairman of the National Association of Small Communities (NASCO), I am concerned and upset that organizations such as NASCO, The National Association of Towns and Townships, the National League of Cities, Small Cities Advisory Council and other appropriate organizations were not notified of this totally new direction for the program, and also did not have the opportunity to work with HUD and OMB on this and other alternatives to realistically deal with the problems and needs of our smaller communities. Therefore, I strongly urge that greater involvement of states in the program not be pursued. As you no doubt know most states presently lack staff capacity to run the program and the performance by many states under the technical assistance program of Section 107 reveals for the most part a very marginal ability when compared with the assistance available from representatives of the HUD area offices. Moreover, it is the feeling of most local officials that the federal review process is objective and not politicized as most state grant processes have become.

What small cities need is a lowering of the entitlement threshold so that a significant number would have direct access to HUD funds on an entitlement basis. The mechanics for competing for the small cities funds should also be simplified. Both of these improvements to the Small Cities Program are best achieved in the context of the program remaining at the Federal level.

We urge your objection to any legislation which would transfer the program to the states!

Very truly yours,

JEAN A. LEVESQUE,
Chairman.

Mr. TSONGAS. Mr. President, the report which accompanies this bill justifies these changes on the grounds of unwarranted Federal regulatory intrusion and burgeoning administrative hurdles.

It says we have gone from 52 pages to over 2,000 pages of regulations in 7 years. I do not want to quibble over the total number of CDBG regulations for the entire program, but I must point out that the HUD regulations for the application and review requirements, for both small and large cities—which means that not all cities are subject to all requirements—appear to be about 52 pages.

I may have missed a few hundred pages, but I cannot have missed 1,950 pages. So let us not say we are eliminating 2,000 pages of regulations by ending the protections in the laws.

Again, while local officials have complained about the need to reduce paperwork, and those complaints are justified, let us not say we need to reduce effective use of the taxpayers' money in order to reduce paperwork. Let us call it what it is—negligent use of tax money for no purpose.

In conclusion, let me say that these community development laws are more to me than words on a piece of paper, or formula calculations on a computer printout. I spend a lot of time bringing these programs to life in Massachusetts.

I know that, absent these requirements, a lot of cities will continue to do a good job. But if we want to avoid going back to funding golf courses, we should

not abandon 7 years of careful fine tuning and leave that possibility open.

If the States were to take control of the program for small cities, I am sure that some—like Massachusetts—would spend the money well, because they have a proven track record in community development.

But there is no justification for placing a new layer of bureaucracy between local government and these funds, and certainly no reason to give the States the opportunity to subvert the objectives of this program.

Mr. President, we do not need to enact these provisions. We have an authorization. We are not required to take this action in order to comply with reconciliation. We shall make a big mistake if we act now in haste, and our actions result in unwise expenditure of scarce Federal funds.

Let me make two other remarks, Mr. President. I do not believe any Member of the Senate spends as much personal time as I do working on cities. Just in terms of the scheduling of my time in Massachusetts, I spend a lot of my time working with individual mayors on the issue of revitalization. The cities in our State have had a lot of bad years and it is a challenge to try to bring them back.

First, I can state with certainty that if you make changes in the CDBG program, or cut it back, the opportunity for these cities to engage in their own revitalization will be severely diminished. I think anyone who has worked with cities would arrive at the same conclusion. I think the statement by Senator PROXMIRE indicating how these cities feel about the changes is rather conclusive.

Second, I want to make a prognosis. In my opinion, the best urban revitalization program is the UDAG program. That program also happens to be the one with the most stringent terms and conditions for targeting resources. A program like public service CETA, with less stringent targeting, has been subject to great abuse.

I believe that, potentially, one way to eliminate the CDBG program is to take all the restrictions out of the law. Then it will be abused and the abuse will become the rationale for killing the entire program.

It seems to me if we are going to kill it, let us do it in a way that shows what we are doing and not in this rather strained way that I think does justice neither to the opponents nor to the program itself. I urge that the amendment of the Senator from Wisconsin be approved.

Mr. President, I would like to engage the chairman in a colloquy about one of the provisions of title I, if I might. As he has explained, the bill would permit States, at their option, to take over administration of the small cities community development block grant program.

In my State of Massachusetts, many, many communities participate in the small city program.

Many of these communities are participants in the comprehensive small cities program, administered by HUD to encourage comprehensive community development planning and programing for small cities.

As the chairman knows, communities participating in this program are not given 3-year contracts, but are awarded funds on an annual basis, pending sufficient appropriations and adequate progress in meeting the previous year's goals.

Consequently, there are many communities now in the first, second, or third years of planned, comprehensive grant programs which face the possibility of State administration of the small cities program in fiscal year 1982 and beyond.

Now, it is my understanding that some very considerable portion of the funds which would be made available for nonentitlement grantees in fiscal year 1982 and fiscal year 1983 has been committed, in effect, through the comprehensive small cities program.

I know that for my State of Massachusetts, the figure would be very high, since a high proportion of my State's small cities are participants in the comprehensive grant program. Mr. Chairman, am I correct in my reading of S. 1197 that there are no statutory provisions which require States to honor these multiyear commitments where they have been made by HUD in previous years?

Mr. GARN. That is correct.

Mr. TSONGAS. Would I also be correct in assuming that the committee assumed when drafting this legislation that the States would honor multiyear commitments made by HUD, even though the statute does not specifically require them to do so?

Mr. GARN. The committee based its decision to offer States the option to undertake the administration of the small cities program on a belief that many States have the capacity and the willingness to run sound community development programs.

The committee believes that States can run these programs with more sensitivity and understanding of local problems than the Federal Government.

Thus, the committee would be very surprised to find that States which opted to take over the small cities program were not prepared to honor these commitments, insofar as they are clearly responding to the needs of communities which adopted multiyear programs to address their needs.

Mr. TSONGAS. I appreciate that statement. The chairman would agree, then, that it was the committee's intention, and therefore the intention of the entire Senate in adopting these changes to title I, that States opting to take over the small cities grant program would be expected as a condition of such a takeover, to honor and fund those multiyear commitments which cities undertook with funding and approval from HUD in previous program years?

Mr. GARN. Yes, that would be correct.

Mr. TSONGAS. Would the chairman further agree that the Senate would expect the Secretary of HUD, when issuing regulations to enact this provision, to include in those regulations a requirement that States agree to honor and carry out to their completion multiyear commitments made to communities in previous program years by HUD?

Mr. GARN. Yes, I certainly would expect HUD to include such a requirement in the regulations.

Mr. TSONGAS. Once again, I would like to thank the distinguished chairman of the Banking Committee for this opportunity.

ORDER OF ROLLCALL VOTE TO OCCUR AT 3:30 P.M. TODAY ON UP AMENDMENT NO. 129

Mr. STEVENS. Mr. President, it is my understanding that the distinguished Senator from Wisconsin has an amendment that is pending that is ready for a a vote at this time. Have the yeas and nays been ordered on that amendment?

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

Mr. STEVENS. I ask unanimous consent that the rollcall on the amendment of the Senator from Wisconsin occur at 3:30 this afternoon.

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

Mr. STEVENS. Mr. President, I ask unanimous consent that that amendment be set aside and that other amendments be in order. I announce that it is our intention that if rollcall votes are ordered on any amendments called up between now and 3:30 p.m., they will occur following the rollcall vote that has been ordered on the amendment of the Senator from Wisconsin.

We also hope that we will be able to finish this bill by 4:30 this afternoon. We will have more to say about that later.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

UP AMENDMENT NO. 130

(Purpose: To amend section 201 of the Housing and Community Development Amendments of 1978)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. DODD) proposes an unprinted amendment numbered 130.

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

The PRESIDING OFFICER Without objection, it is so ordered

The amendment is as follows:

On page 66, between lines 18 and 19, insert the following:

ENERGY EFFICIENCY EFFORTS

SEC. 213. Section 201 of the Housing and Community Development Amendments of 1978 is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following:

"(h)(1) Notwithstanding any other provision of law, in exercising any authority relating to the approval or disapproval of rentals charged tenants residing in projects which are eligible for assistance under this section, the Secretary—

"(A) shall consider whether the mortgagor could control increases in utility costs by

securing more favorable utility rates, by undertaking energy conservation measures which are financially feasible and cost effective, or by taking other financially feasible and cost-effective actions to increase energy efficiency or to reduce energy consumption; and

"(B) may, in his discretion, adjust the amount of a proposed rental increase where he finds the mortgagor could exercise such control.

"(2) The Secretary may waive one or more of the requirements of this section and may provide financial assistance to an owner of a project which is eligible for assistance under this section in order to assist the owner in carrying out a plan to upgrade the project to meet cost-effective energy efficiency standards prescribed by the Secretary.".

Mr. DODD. Mr. President, this amendment addresses the serious situation threatening the viability of the existing inventory of HUD insured and subsidized housing developments in my State and in many other areas of the Nation experiencing rapidly escalating utility costs. Our failure to take immediate and cost-effective actions to promote energy-efficiency in this inventory would place this housing beyond the financial reach of those it is intended to serve and would substantially increase Federal costs.

The situation this amendment addresses stems from the very nature and design of the prior HUD insured and subsidized programs. Unlike the section 8 program which provides for annual subsidy increases in response to increased operating costs, these HUD subsidy programs—section 236, section 221(d)(3) program which provides for annual supplement—provided fixed levels of assistance which do not increase in relation to income changes or cost increases. Principally as a result of increasing utility costs, many residents of these developments now pay excessive portions of their incomes for rent and have no housing alternatives.

The problem, Mr. President, is that the owners of these projects have little, if any, incentive to conserve energy and no available source of Federal assistance for needed improvements. Since HUD regulates rents in these buildings, a rise in utility bills prompts mortgagors to apply to the Department for rent increases to cover the additional expenses. In most cases, HUD simply verifies the increase and rarely considers whether all financially feasible steps have been taken to reduce utility expenses. The increase is granted and residents bear the full impact through increased rents. As long as HUD will approve these costs and the residents pay for the increases, mortgagors have no economic incentives to reduce costs by conserving energy or seeking lower rates.

In response to this situation, the first portion of my amendment would require the Secretary to assess the extent to which rent increases requested by the owners of these projects result from increased utility costs and the degree to which the owner has taken steps to decrease energy consumption.

The Secretary could approve less than the full increase, but my intent here is not to limit the ability of owners to secure necessary operating income.

Rather, the purpose here is to insure that owners know future rent increase requests will not be approved automatically if they continue to avoid reasonable, cost-effective actions to mitigate utility costs and the resultant effects on tenants.

For example, owners should be expected to try and secure the lowest utility rates possible for their property and implement cost-effective energy conservation measures using available project reserves or Federal and local assistance.

This amendment will not deprive owners of rent increases to which they would otherwise be entitled but rather would insure that such increases are limited to circumstances outside the owner's control.

Because these conservation improvements often increase costs in the short-term, I believe that it is essential that the Federal Government provide funding for these efforts as a last resort in order to maintain these housing resources at affordable rents for the low- and moderate-income families for whom this housing was designed to serve.

The simple fact is that there is currently no Federal funding source to provide direct assistance to project owners to make this housing energy efficient.

Modest expenditures for this purpose would be more than offset by the future energy savings and the reduction in the ultimate Federal contribution needed to keep this housing within the means of its residents.

While funding to increase the energy efficiency of these projects is permissible under the program of operating assistance for troubled multifamily housing projects enacted in 1978, the requirements for receipt of this assistance are geared to a more comprehensive treatment of the management and capital improvement needs of financially troubled projects.

In sum it is difficult, if not impossible, to obtain funding under this program exclusively for conservation activities absent other serious deficiencies.

The purpose of this assistance, however, is to maintain the financial soundness and low- and moderate-income character of the subsidized projects.

Making these projects energy efficient contributes to this objective, particularly in light of recent utility cost increases.

With this in mind, the second part of my amendment gives the Secretary the discretion to waive certain requirements under the troubled projects program in order to provide mortgagors with assistance to implement a cost-effective energy conservation plan.

It simply does not make sense to require these projects to become more distressed overall before they can become eligible for this assistance.

The decisions as to which comprehensive requirements would be waived and the use of funds for energy conservation are left to the discretion of the Secretary.

I envision that this change would enable the Secretary, at his discretion, to use this authority in circumstances consistent with the purposes of this assistance and only upon a determination that the owner is incapable of making these improvements without creating an additional cost burden on residents.

These activities would be funded from the available appropriation for the troubled projects program and would not result in any increase in budget authority or outlays.

In conclusion, I hope that my colleagues will agree that these amendments represent a modest and prudent step, within the current budget limitations, in support of both enhanced, cost-effective energy conservation and the protection of the very valuable investment of the Federal Government in the housing inventory for our lower and moderate-income citizens.

Mr. LUGAR. Mr. President, we believe that the amendment offered by the Senator from Connecticut has merit and will be delighted to support the amendment.

Mr. PROXMIRE. Mr. President, I commend my good friend from Connecticut for coming forward with this initiative to provide incentives to increase the energy efficiency of HUD subsidized housing developments and thereby mitigating the potential impact of rent increases on low- and moderate-income residents.

As I understand this amendment, HUD would be required in the consideration of proposed rent increases for these developments to consider the extent to which owners can and have taken cost-effective energy conservation measures within their control.

In addition, the Secretary would be given the discretion to use funds appropriated for the troubled projects program to finance these needed improvements.

This amendment will not result in any increased costs and, in fact, in the long term should result in a savings to the Government to the extent that energy consumption is reduced and the likelihood of future income subsidies or insurance claims is mitigated.

For these reasons, I am pleased to accept the Senator's amendment on behalf of the minority.

Mr. DODD. I thank my distinguished colleagues from Wisconsin and Indiana for their support of this amendment. I appreciate the assistance they have given me in developing the amendment.

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

The amendment (UP No. 130) was agreed to.

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

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 131

(Purpose: To strike section 211 of the bill)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes unprinted amendment numbered 131:

On page 63 of the bill, strike lines 23, 24, and 25, and strike the entirety of pages 64 and 65 of the bill.

Mr. ARMSTRONG. Mr. President, before addressing myself to the subject of this amendment, which I will do quite briefly, let me just take this occasion while I am on my feet to congratulate the distinguished subcommittee chairman and the ranking minority member and the others who have worked to bring this bill to the floor.

In my judgment, the legislation which we are now considering corrects some very serious difficulties with the present program of subsidized housing. If there were ever a moment in the life of this country when it was important for us to target our resources to be sure that the truly needy received the first and largest allocation of scarce resources and to wherever we can eliminate wasteful or abusive practices, this is obviously the time and place, and I believe that this bill does much to accomplish that purpose, and I think it is a very worthy thing and I do congratulate the managers of the bill in making that possible.

The amendment is a very simple one. It strikes from the bill a section which was inserted originally at my suggestion which provided for an interagency task force consisting of HUD, OMB, and Treasury to report to Congress within 6 months on three matters:

First, the direct and indirect Government cost on a per-unit basis of providing housing under the three major Federal rental housing assistance programs; second, the least expensive means of federally financing section 8 projects; and third, what additional Federal resources will be required to protect the Federal Government's current investment in already subsidized Federal housing projects.

This study is, in my judgment, urgently required for reasons which are spelled out in some detail in the committee report.

However, I am disposed to strike this from the bill upon the assurances by the Department that they are prepared to go forward with that study in an expeditious manner and furnish to Congress the information which is requested by the bill or which is directed by the bill in its present form.

I am particularly inclined to do so because of my very high regard and friendship for the Assistant Secretary of HUD for Housing who has expressed great personal interest in conducting a study along the lines which are contained in this section, and I have every confidence that under his leadership and that of others in the Department the study will be conducted and, therefore, the statutory language is not necessary.

With that explanation, Mr. President, I move the adoption of this amendment.

Mr. LUGAR. Mr. President, I compliment the Senator from Colorado on his very constructive amendment, even more so on his generosity of spirit in striking language which he offered in the markup.

But as the distinguished Senator has related, he has visited with the Secretary of HUD and with others and has been reassured that the objectives that he sought are shared by them and will, in fact, be implemented. We are delighted to support his amendment.

Mr. PROXMIRE. Mr. President, the amendment of the Senator from Colorado, as I understand it, would withdraw the requirement of this study that is in the bill. It would do so because, as I have been told, this study will be made anyway by the administration.

And I wish to say, of course, I accept the amendment and am happy to support it.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment of the Senator from Colorado.

Mr. ARMSTRONG's amendment (UP No. 131) was agreed to.

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

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 129

Mr. CRANSTON. Mr. President, I wish to speak briefly on the amendment that has been proposed by Senator PROXMIRE.

I am very happy to cosponsor the amendment which would delete all of title I of the housing and community development amendments in S. 1197 except for the program dollar authorizations and the sections dealing with the authorization of the urban development action grant program. The remainder of the provisions contained in title I of S. 1197 are so onerous that a bipartisan effort to improve the proposed title would be pointless.

In an effort to relax Federal regulation of community development block grants (CDBG) the committee majority voted to amend the existing statute so that:

First, the current application procedure for requesting CDBG funds is deleted;

Second, the secretarial review process is weakened to the point where review of the community's proposal occurs after the project is funded;

Third, the existing requirement that a comprehensive community development plan and strategy be submitted is dropped;

Fourth, citizen participation requirements are weakened; and

Fifth, a State block grant program is created.

If these provisions are adopted I am concerned that the ability of the Federal Government to assure that CDBG funds are targeted to low-income persons and to projects that will have an impact on revitalization of a community will be significantly weakened. Because the community will be able to substitute a statement of objectives, published in a local newspaper, that is not reviewed by HUD in lieu of a formal application, the Federal Government will not have the opportunity to comment upon the proposed use of Federal funds until after the project is funded. This could lead to abuses and waste in the program. Communities could fund projects including swimming pools, tennis courts, and saunas under the guise of redevelopment and not use the funds for the benefit of low-income people. The projects would be well underway before HUD would have the opportunity to curtail this kind of abuse.

This change in the formal application procedure by the Republican majority is a perverse attempt to permit cities to avoid using CDBG funds for low- and moderate-income people as set out in the purposes of the act. The elimination of the application process and the reduction of participation of low-income persons in the development of the redevelopment plans for their communities will allow cities to revitalize low-income areas without considering the needs and desires of low-income persons who live in those areas.

These changes have been adopted by the committee without adequate hearings or comments. In fact, a recent GAO report found that even under the existing program communities fail to effectively target their funds, and that the funds are often used for questionable purposes. GAO concluded that tighter oversight was needed to assure that progress is made in carrying out the purposes of the act. Title I of this bill contradicts the intent of the GAO report which calls for stronger Federal controls. I do not consider title I to be a responsible approach to the disbursing of CDBG funds to communities.

Mr. President, these changes transform the program into little more than a revenue-sharing program which is not the intent of the CDBG program. It was specifically designed to allow for Federal controls so that localities would not abuse the discretion they are afforded in the act. Congress has a responsibility to assure that Federal funds will be used in a manner consistent with the purposes of this act. I am very concerned about the potential for abuse that would occur if this title is enacted and it is for this reason that I urge my colleagues to vote for this amendment.

I yield the floor.

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

The PRESIDING OFFICER (Mr. COCHRAN). The pending business is S. 1197. There is no amendment pending at this time.

UP AMENDMENT NO. 132

(Purpose: To reduce the section 516 authorization)

Mr. SCHMITT. Mr. President, I send an amendment to the desk which is in the nature of a technical amendment. and I believe the managers of the bill have agreed to accept it.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT) proposes an unprinted amendment numbered 132.

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

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

The amendment is as follows:

On page 106, line 9, strike out "$49,000,000" and insert in lieu thereof "$24,000,000".

Mr. SCHMITT. Mr. President, I believe the distinguished manager of the bill, Senator LUGAR, understands this amendment. It merely corrects the legislation to follow the intent of the committee. An inadvertent error in amount was included, and this amendment will correct that error.

Mr. LUGAR. Mr. President, I am pleased to commend the Senator from New Mexico for a very constructive amendment, for his careful and thoughtful attention to detail. Obviously, we support the amendment.

Mr. PROXMIRE. Mr. President, I understand this amendment is required for reconciliation, and therefore I am happy, of course, to accept the amendment.

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

The amendment (UP No. 132) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UP AMENDMENT NO. 133

(Purpose: To reallocate unused entitlement funds)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE) for himself, Mr. DIXON, and Mr. LEVIN, proposes an unprinted amendment numbered 133.

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

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

The amendment is as follows:

On page 15, beginning with "added" on line 3, strike out all through line 5 and insert in lieu thereof "reallocated in the succeeding fiscal year among the metropolitan cities and urban counties of the same State on the basis of a formula under which the amount reallocated to each such city or county bears the same ratio to the total amount reallocated to the metroplitan cities and urban counties within that State as the ratio which the amount allocated to that city or county pursuant to the preceding provisions of this section bears to the total amount allocated to the metropolitan cities and urban counties within that State.".

Mr. RIEGLE. Mr. President, I am offering this amendment on behalf of myself, Senator DIXON, Senator LEVIN, and Senator PERCY.

This amendment addresses the need to reallocate community development block grant funds after they are allocated by formula to communities that for a variety of reasons do not participate in the block grant program. Under present law, funds that are allocated to a community but not used are redistributed by HUD to other nearby communities. First priority goes to other communities in the same metropolitan statistical area. Second priority goes to other communities in the same State. Funds have not been redistributed outside the State.

The bill before us would change that approach by having HUD recapture the funds at the national level and then add the recaptured amounts to funds distributed by formula nationwide in the subsequent fiscal year. The administration sees this approach as one more way to reduce HUD's role in community development decisionmaking.

Mr. President, my amendment moves in the direction that the administration favors, but avoids a significant loss of funding that would be suffered by several States under the committee's reported bill.

This principally has an effect in about six States, Michigan, of course, being one, and California, Illinois, Texas, Wisconsin, and Connecticut being the others.

The reported bill would distribute funds from those States across the entire 50 States. The total amount of money involved is not great, so no community would gain noticeably under the administration's new approach. The amounts involved are $16 million, or only 0.4 percent of the total block grant program. However, for the States that are adversely affected, there are significant losses.

I have talked with the chairman about this matter and the ranking minority member. It would be my hope that the committee would accept this amendment.

Mr. LUGAR. Mr. President, I would like to support this amendment and will do so and recommend that the Senate approve the Riegle amendment. I believe it to be a constructive change.

Essentially, the current law provides for reallocation in the metropolitan areas where funds are lost. This has proven to be complex on some occasions.

Senator RIEGLE's amendment provides for recapture within a State. There was, of course, an intent, as the Secretary of HUD presented his ideas, that this money might be reallocated on a national basis as opposed to being recaptured in a State. Clearly, that course is arguably better. But, at the same time, it would appear to us, at least, that there is commonsense in the State recapture provision.

The sums of moneys are not large. As Senator RIEGLE has pointed out, apparently $14 million is involved out of $3.6 billion. So that, in our judgment, the question is a close call, but we commend the Senator for a constructive amendment and support it.

Mr. RIEGLE. I thank the Senator very much for his support and comment.

Mr. President, the approach I propose would be consistent with the policy adopted last year for section 8 housing funds and with the policy the committee is proposing for small cities this year.

Mr. PROXMIRE. Mr. President, I am happy to support this amendment. It is a good amendment. It keeps funds within the State where they were originally allocated and thus reduces the pressure on other communities within the areas which would be burdened if they were not kept there. Also, it is consistent with what we have done for housing assistance funds. It is not a new procedure. It is consistent with a policy we have already established.

I commend the distinguished Senator from Michigan on the amendment. I ask unanimous consent that I may be listed as a cosponsor.

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

Mr. RIEGLE. Mr. President, I am delighted to have the support of the Senator.

If there is no further comment, I again thank both the chairman and the ranking minority member for their support and ask that we vote now on the amendment.

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

The amendment (UP No. 133) was agreed to.

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

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 134

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New York (Mr. D'AMATO) proposes an unprinted amendment numbered 134.

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

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

The amendment is as follows:

Page 82, between lines 9 and 10, add the following:

Section 242(d)(5) of the National Housing Act is amended by adding the following paragraph at the end thereof: ", provided however, the foregoing shall not limit the ability of the Secretary to approve a mortgage increase for any changes by the Secretary on any mortgage eligible for insurance under this subpart for which an application for increase had been made within 2 years of enactment.

Mr. D'AMATO. Mr. President, I am offering a technical amendment to the Housing and Community Development

Amendments of 1981. My amendment is intended to clarify the meaning of the term "modification of an existing mortgage." I am concerned about hospitals that are currently being renovated and refurbished through the combined use of HUD mortgage insurance, GNMA guaranteed obligations, and tax-exempt bonds.

In the 1979 amendments to the housing bill Congress grandfathered approximately 41 hospitals to allow them to complete any construction for which an application for insurance had been submitted by June 7, 1979. This amendment also prohibited any modifications of existing mortgages after that date. The use of the term modification has caused some bond counsel to question whether any changes in the mortgage structure is allowed even for those hospitals that qualified under the grandfathering provision.

Most of the hospitals that are affected by this amendment are in urban areas serving moderate-income persons. These hospitals need either more financing or have changed their renovation needs since the original applications were filed. I am sure, Mr. President, we all understand how under today's financial situation it may be necessary to require additional financing to complete such construction projects.

My amendment also requires that both the hospitals and HUD take action in a timely fashion. I believe, Mr. President, that the thought behind the original amendment was to limit the number of such applications. I have no desire and my amendment does not open the door to new applications or extensions that will go on for many years. I have included in this amendment a time limitation of 2 years after the date of enactment of this bill.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I commend the Senator from New York on a constructive amendment in which he has tried to tidy up some of the affairs of the past with regard to hospitals that are very well taken care of, I believe, by his thoughtful research. I support the amendment and commend it to the Senate.

Mr. PROXMIRE. Mr. President, I am happy to support the amendment. As the Senator from New York points out, the amendment would not expand the number of hospitals covered by present law. It would not mean any increase in the present mortgages for covered hospitals, only that adjustments could be made in mortgages up to the limits now in effect.

The hospitals affected are those serving predominantly persons of moderate incomes and thus the amendment is especially worthwhile. I am happy to support it.

Mr. D'AMATO. Mr. President, I thank my distinguished colleagues, the Senator from Wisconsin and the Senator from Indiana. I move the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New York (Mr. D'AMATO).

The amendment (UP No. 134) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 135

(Purpose: To authorize loans at interest rates in excess of certain State usury ceilings)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS), for himself and Mr. PRYOR, proposes an unprinted amendment numbered 135.

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

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

The amendment is as follows:

On page 82, between lines 9 and 10, insert the following:

USURY PROVISION

SEC. 319. Title V of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended by adding at the end thereof the following:

"Part D—General Usury Override

"OTHER LOANS

"SEC. 531. (a) If the applicable rate prescribed in this section exceeds the rate a person would be permitted to charge in the absence of this section, such person may in the case of any loan, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any such loan, interest at a rate of not more than 1 per centum in excess of the discount rate, including any surcharge thereof, on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the person is located.

"(b) If the rate prescribed in subsection (a) exceeds the rate such person would be permitted to charge in the absence of this section, and such State imposed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the person taking, receiving, reserving, or charging such interest.

"(c) For the purpose of this part—

"(1) the term 'loan' includes all secured and unsecured loans, notes and bonds, credit sales, forbearances, advances, renewals or other extensions of credit made by or to any person or organization;

"(2) the term 'interest' includes any compensation, however denominated, for a loan;

"(3) the term 'organization' means a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, association, or other entity; and

"(4) the term 'person' means a natural person or organization.

"EFFECTIVE DATE OF PART D

"SEC. 532. (a) The provisions of this part shall apply only with respect to loans made in any State during the period beginning on July 1, 1981, and ending on the earlier of—

"(1) April 1, 1983, or

"(2) the date, on or after July 1, 1981, on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of this part to apply with respect to loans made in such State,

except that such provisions shall apply to any loan made on or after such later date pursuant to a commitment to make such loan which was entered into on or after July 1, 1981, and prior to such later date.

"(b) A loan shall be deemed to be made on or after July 1, 1981, if such loan—

"(1) is funded or made in whole or in part after July 1, 1981, regardless of whether pursuant to a commitment or other agreement therefor made prior to July 1, 1981;

"(2) was made prior to July 1, 1981, and bears or provides for interest on or after July 1, 1981, on the outstanding amount thereof at a variable or fluctuating rate; or

"(3) is a renewal, extension, or other modification made on or after July 1, 1981, of any loan, if such renewal, extension, or other modification is made with a written consent of any person obligated to repay such loan.

"(c) This part does not apply to any loan which is—

"(1) made in a State to which the provisions of parts A, B, and C of this title do not apply on the date of enactment of this part; or

"(2) secured by a residential manufactured home unless the loan meets the requirements of section 501(c).".

Mr. BUMPERS. Mr. President, I want to refresh the memories of my colleagues about the action taken by Congress last year to alleviate the plight of a lot of people, especially in my home State of Arkansas, who are in the financial business, because they were limited by a constitutional usury rate at a time when interest rates were going out the roof across the country. We passed three usury override provisions in the omnibus banking bill:

First, we provided that on business and agricultural loans, financial institutions could charge 5-percent above the Federal discount rate plus the Federal surcharge on the Federal discount rate. That translates into today's banking business this way, Mr. President: The Federal discount rate is 14 percent. Five percent above that, which was permitted under the bill of last year, would get the banker up to 19 percent, and the Federal surcharge right now is 4 percent. That is set by the Board of Governors of the Federal Reserve Board. Conceivably, bankers could charge as much as 23-percent interest under that bill. But that was only for business and agricultural loans. Consumer loans were not covered under it.

Second, we provided that any federally related institution, such as a federally chartered bank, a federally chartered credit union, any State bank insured by

the FDIC, and any State savings and loan insured by the FSLIC could charge 1 percent above the Federal discount rate on any loan. Since the Federal discount rate today is 14 percent that would mean they could charge 15 percent even on consumer loans.

But we still left some loopholes that are really wreaking havoc on the retailers of my State—and there are other States similarly situated—especially in the automobile industry. Ford Motor Credit, GMAC, all of those institutions that are not federally related, in my State, for example, are limited to a 10-percent rate on consumer loans. That means that the dealer cannot sell a car unless a bank is willing to finance it.

If an automobile is being sold for personal use the automobile dealer or the automobile finance company may not charge those higher interest rates. The most GMAC will charge the customer is 10 percent. So, in short, the automobile financing companies are pulling out. GMAC is pulling out. Ford Motor is pulling out. Chrysler is pulling out.

The automobile dealers in my State are in a terribly precarious situation. Even if they could find a banker to loan somebody money to buy an automobile, the maximum rate the bank could charge today is 15 percent. Since bankers are paying between 15 and 16 percent for their money, they are not clamoring to make those loans.

Mr. President, I ask unanimous consent that an article on the front page of the Wall Street Journal on May 22, 1981, setting out the particular situation in Arkansas, be printed in the RECORD immediately following my comments.

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

(See exhibit 1.)

Mr. BUMPERS. Mr. President, in April of last year the National Automobile Dealers Association did a random survey across the country and found that about 30 percent of their sales contracts for the purchase of an automobile were being lost because of the inability of the consumers to obtain financing. Think about that, 30 percent of the automobile dealer sales in the country being lost for lack of financing. By May the figure had jumped to an astounding 50 percent.

In a lot of cases, the inability of lending institutions to charge the going rate just simply caused the customer to withdraw. The dramatic reduction in consumer credit which consumers experienced during a recent period of high interest rates was not, of course, solely due to State usury limits, but there is not any doubt they have been big contributors.

Mr. President, I just talked to the chairman of the Banking Committee a moment ago. I told him that this is a critical situation for my State. I do not like the idea of coming to the Senate or to the Congress and asking them to bail out the State of Arkansas from a situation like this. I happen to be a borrower, not a lender. I do not like high interest rates any better than anybody else does. But I can tell you that the retailing industry in my State, especially the automobile industry, is in critical condition, and we have to have some relief. The only place they can get it right now, and the only place they can get it prior to November 1982, when our next election will be held to vote on this issue, is right here.

So I am pleading with my cohorts to lend an ear, to give us special consideration. The automobile industry in this Nation is in a critical condition. When you compound that with the fact that 50 percent of the sales nationwide are being lost for lack of credit, we are hurting ourselves.

Incidentally, I have a commitment from the chairman of the Banking Committee to hold hearings on this matter. I know the committee is considering a much broader bill dealing with this usury situation. I am reluctant to even burden them with this specialized kind of legislation. But the reason I bring it up now is to establish the dialog, to put everybody on notice that we are in a hopeless situation. We have to have relief and we have to have it soon.

The president of the Arkansas Dealers Association told me that if it takes 6 months to get this amendment through, 50 percent of the automobile dealers in Arkansas will be out of business. That is how serious it is. That is not hyperbole.

Mr. President, in sum, the State of Arkansas faces an economic emergency because of the usury limit in our State constitution. I ask unanimous consent that the article be reprinted at the conclusion of my remarks.

I have spoken in the Senate many times about the emergency financial situation created by the usury limit in the Arkansas constitution.

The State constitution mandates an interest ceiling of 10 percent on consumer and business loans, while small businessmen are required to finance their inventory with national suppliers at rates in excess of 20 percent. The merchant loses money if he sells the merchandise on credit and is limited to a 10-percent interest rate.

The usury override legislation that was passed by Congress last year provided temporary relief to some segments of the Arkansas economy, but another emergency relief measure needs to be passed to prevent many small businessmen from being driven out of business between now and next year's general election when the voters of Arkansas will once again be given an opportunity to change the 10-percent usury limitation contained in the Arkansas constitution.

An inequitable situation was created by the usury override legislation passed by Congress last year.

Under current law, any person, not just financial institutions, can make a business or agricultural loan and charge an interest rate up to 5 percent over the Federal discount rate, regardless of the State usury limit. But only federally-related financial institutions are allowed to make consumer loans that exceed State usury ceilings.

The net result is that merchants must borrow money at 21 percent or higher for loans on their inventory, and loan money to their customers at 10 percent. It does not take long under this financial arrangement to bankrupt the merchant.

Mr. President, the amendment Senator PRYOR and I are proposing today will provide temporary relief by allowing any person to charge a rate of interest of 1 percent in excess of the discount rate on all types of loans. The usury preemption in the bill will expire on April 1, 1983, or sooner if the State passes a law or constitutional provision overriding the Federal legislation.

There is no question that Arkansas' economy has suffered as a result of the constitutional usury limit.

Since 1974, when it all really started—the prime rate reached 12 percent in July 1974—Arkansas has ceased advancing on the national per capita income. From 1958 to 1974, Arkansas went from 62.3 percent to 78.7 percent of the national per capita income. Arkansas' growth was a 7.84 percent compounded annual rate, or 1.57 percent a year faster than the United States 6.27 percent.

Since 1974, however, Arkansas per capita income has increased at a 9.68 percent rate, which was .23 percent a year slower than the U.S. rate of 9.91 percent. We do not have comparable data for 1980, but the economic outlook just published by the University of Arkansas has comparative figures for personal income that indicates Arkansas will drop again when the figures come out.

Real personal income fell in 1980, both for Arkansas and the United States, with Arkansas' decrease almost twice the U.S. percentage (—4.959 percent versus —2.608 percent). This was partially due to the poor agricultural year, aided by the very weak year for construction. The 1981 projection is much better because it assumes a very good year for agriculture.

In earlier recessions, when the inflation was lower and interest rates lower and less volatile, Arkansas suffered less than the Nation. That is no longer the case. Arkansas is simply not competitive at these levels of inflation and interest rates, and it seems that it will be some time until the Nation's economy can be brought back to more reasonable levels—if indeed, it ever gets to the point that 10 percent is a broadly acceptable rate.

Recent unemployment data indicates that Arkansas suffered more from the poor economy in 1980 than did the Nation as a whole, and that the problem is continuing.

Overall, almost 6,000 more jobs would have existed in Arkansas at the end of 1980 if the State had performed like the Nation. Wholesale and retail trade employment would have been 3,600 more, and transportation and public utilities would have been up 2,100 jobs. If these jobs existed, Arkansas' February 1981 unemployment rate would have been 8.7 percent, instead of 9.3 percent.

State usury limits were established for ordinary times. However, when extraordinary circumstances result in a rapid escalation of interest rates and the prime rate quickly surpasses most State usury limits, the limitations no longer serve the purpose for which they were designed.

No one can deny that these are extraordinary times. During the decade of the sixties, the prime rate was changed only 15 times. During the year 1980 alone, the prime rate was changed 60 times. The prime interest rate hit 20 percent last April. Four months later, it was at 11 percent, and then in December was at 21.5 percent.

Usury limits compound the problems of small businessmen who are already hurt by the increased costs of doing business. Inasmuch as small businessmen generally have to pay 1 to 2 percentage points above prime to finance their inventory, they cannot obtain credit to continue to finance their ordinary business obligations, since lending institutions will naturally refuse to extend credit at usury law limits which are well below the going rate. In addition, sales of higher cost items, such as automobiles, drop dramatically because those consumers who desire credit and are willing to pay higher rates to finance the purchase of these items simply cannot get credit.

The Nation's automobile industry has been, and continues to be, in desperate straits. Production and sales are down dramatically and unemployment within the industry and within allied industries is extremely high. As far as the small business dealer is concerned, the attrition rate is staggering. Over 1,600 dealers have closed their doors since January 1, 1980, and over 100,000 dealer employees have lost their jobs.

The current problems facing the industry are, of course, multifaceted and no single action by the Government or industry will provide an immediate solution. However, State usury laws have played a significant role in the problems that have been encountered by many automobile dealers.

Automobile dealers are not the only people affected adversely by State usury limitations, but they exemplify the reason for the amendment I am introducing today.

As I said earlier, in April of last year, the National Automobile Dealers Association performed a random survey of dealers from across the country and found that approximately 30 percent of their sales contracts for the purchase of an automobile were being lost because of an inability of the consumers to obtain financing. By May, this figure had jumped to an astounding 50 percent. In many cases, the inability of lending institutions to charge the going rate resulted in their withdrawal from the automobile financing business.

The dramatic reduction in consumer credit which consumers experienced during the recent period of high interest rates was not, of course, solely the result of State usury limits, but there is no doubt that these limits contributed significantly to the problem in many areas of the country, especially Arkansas.

Unlike many other States, the Arkansas Legislature cannot legislate lenders out of this critical situation. With a 10-percent maximum interest rate limit embedded in Arkansas' constitution, there is no choice but emergency Federal legislation until our next general election in 1982.

Because of this unique interest rate restriction, many creditors, especially those that automobile dealers must depend on; namely, GMAC, Ford Motor Credit, and Chrysler Credit have established very strict credit policies. Beginning January 1, 1980, GMAC, for example, withdrew collision, conversion and confiscation coverage 93C, which exposes dealers to all losses resulting from repossessed vehicles. Shortly thereafter, Ford also limited their 3C coverage and recently Chrysler has withdrawn it. These moves are unique to Arkansas and were only the beginning of what has become a critical situation for Arkansas automobile dealers.

This critical situation was compounded when GMAC announced that it will not finance new non-GM cars or trucks for Arkansas dealers after March 31, 1981. In addition, the only used cars that will be eligible for GMAC financing will be those traded in on the purchase of a new GM car or truck.

Unless the Arkansas automobile dealers obtain relief immediately, most will not be able to stay in business another year without a dramatic drop in interest rates which is not imminent.

The problem created by usury ceilings is not unique to Arkansas, but the attention of the Senate has been directed to our State more often than others. I do not want to ask for emergency relief again to solve this problem that ultimately will have to be solved at the State level with the passage of a constitutional amendment. I recognize the local nature of this problem, but there is no other source of relief for the people of my State except in Congress.

I urge favorable consideration of this amendment.

EXHIBIT 1

[From the Wall Street Journal, May 22, 1981]

ARKANSAS RETAILERS SAY USURY LAW THREATENS WHOLESALE CLOSEDOWNS

(By Brenton R. Schlender)

LITTLE ROCK, ARK.—When C. Bernie Allen first got into the record and home-entertainment business here 17 years ago, he never dreamed that his fate as a businessman would be determined by Arkansas voters.

But on the day following the election last November, he watched the choir of demonstrator television sets in one of his four suburban stores flash voting returns that confirmed his fears with chilling redundancy. Arkansas voters, fed up with inflation, higher taxes and steep mortgage interest rates, had chosen to retain the state's century-old 10 percent interest rate ceiling on consumer loans. Mr. Allen, who had been paying some out-of-state lenders more than 20 percent in interest to finance his stores' operations for several months, knew that he faced more red ink and possibly his day in bankruptcy court.

Sure enough, in early March his company, Moses Melody Shops Inc., filed for reorganization in federal bankruptcy court here, despite record Christmas sales and the layoff of half his 72 employees. Now, Mr. Allen adds, the company is being liquidated.

"The load of carrying the difference between what we had to pay for money and what we could charge our customers for credit just got too heavy," the 49-year-old former minor-league third baseman explains. "The atmosphere for retail business in this state is like a morgue now."

VARIED COUNTERMEASURES

Hundreds of other furniture, appliance, soft-goods and automobile retailers in Arkansas also are being cramped by the lowest usury ceiling—and the stiffest penalties for violations—in the nation. To preserve profits, they have had to raise prices, tighten customer credit requirements, shorten repayment periods, lay off employees and discontinue free delivery and other services.

Federal legislation has taken Arkansas banks and savings and loan associations off the hook somewhat by allowing them to charge up to 15 percent on consumer loans and 23 percent on business and farm loans. But even the 15 percent limit is so low that many banks have nearly halted consumer lending; they prefer to divert funds to higher-yielding money-market certificates and other investments outside Arkansas.

"There's no other state quite like it," says Robert Devine, national coordinator for credit legislation for J. C. Penney Co. Not only is the Arkansas ceiling the nation's lowest, but Arkansas is the only state where interest rates are governed by the state constitution and not the legislature, he says. "In other words, it's just about impossible for retailers to operate there," he adds.

DEVELOPMENT HURT

Moreover, experts say the strict ceiling and stiff penalties have compounded an historically stagnant state economy and thereby have damped economic development in Arkansas. Others blame the usury ceiling at least in part for a recent spate of business bankruptcies and higher retail prices statewide. "It's hard to quantify exactly what the usury ceiling has done to harm Arkansas, but you know it has," says Jim Guy Tucker, a former congressman and currently an attorney for the Arkansas Bankers Association. It's just that a lot of the bodies haven't floated to the surface yet."

As the election last fall demonstrated, however, lots of people in Arkansas like the usury ceiling. That was the third time since 1968 that voters rejected proposed constitutional amendments, sponsored by a coalition of bankers, retailers and auto dealers, that would have allowed the legislature to set the interest rate ceiling and reduce usury penalties.

The staunchest opponents of the proposals have been organized labor and consumer groups. They cite many reasons. They don't want to give legislators, many of whom have ties with banks, the authority to set the ceiling. And they don't want to dilute the penalty for making a usurious loan—complete forgiveness of all principal and interest.

THE PRINCIPAL ARGUMENT

Mainly, however, "We don't think it's right for retailers to make money on money," says J. Bill Becker, Arkansas AFL-CIO president. He also sees "nothing wrong with tight money". He contends that federal economic-growth barometers show that Arkansas, whose population grew 18.8% in the 1970s, "has done pretty darn good" even with the ceiling.

But signs of the ceiling's effects are all over Arkansas' retailing industry—from the small-town mom-and-pop furniture stores all the way up to big car dealers and department stores. Mr. Allen, for example, was able to carry $2 million in "customer paper" only by borrowing at high interest rates (up to 23% at some out-of-state finance companies), or by paying reluctant appliance finance companies such as Westinghouse Credit Corp. and General Electric Credit Corp. to

back his credit customers. The most he could charge his customers, however, was 10% simple annual interest, with the debt to be paid in no more than 12 monthly installments.

"Most of those accounts were for about $50, and the customer would send you $5 a month," he moans. "That's almost as much as it cost us to mail out the monthly statements."

All those debt problems just to keep merchandise moving ultimately combined with the recession to run Mr. Allen out of business. Like Mr. Allen, his banker, William Bowen, chairman of Commercial National Bank here, blames Mr. Allen's troubles on the usury ceiling. "Bernie Allen played a good game," Mr. Bowen says, "but he got caught in the trap."

Also being hurt is Dillard's Department Stores, Inc., which is headquartered in Little Rock and operates seven of its 40 large stores in Arkansas. The company estimates that it lost $1.2 million in 1980 alone through borrowing from banks to cover its Arkansas credit customers. (Dillard's as a whole, however, earned $8.5 million, up from 8.3 million in 1979.) According to E. Ray Kemp, Dillard's vice chairman, 52% of the company's $35 million in sales in Arkansas are on credit, and "for every $1 we got back in interest and service charges, we spent $1.80." He adds, "Arkansas never was a normal place to do business, but now it's getting even worse."

Part of the problem, Mr. Kemp asserts, is that Arkansans are "taking advantage of any cheap credit they can get." He notes that Dillard's stores outside Arkansas average only 45% in charge sales, and those customers generally pay about 18% annual interest.

Over the years, Arkansas retailers have a few ways to offset the costs of extending credit. Dillard's, for example, has cut its pay period for credit purchases to six months from the 18 months allowed two years ago. Other retailers have quit extending their own credit altogether or encourage the use of bank credit cards, which can charge 15% in annual interest because of the federal bank laws.

Many retailers say they are operating with fewer clerks than ever before and have put off remodeling plans or moves to larger quarters. Others have simply trimmed inventories and discontinued free services.

HIGHER PRICES

However, the easiest way to recoup the built-in credit losses is to raise merchandise prices, and studies show that, except in border areas, Arkansas retailers have done just that. According to Gene Lynch, professor of finance at the University of Arkansas in Fayetteville, prices for furniture and appliances in Little Rock run as much as 11% higher than prices for identical merchandise in surrounding states—a difference he blames solely on the usury ceiling. That finding indicates that "cash customers are subsidizing every credit purchase in the state" by paying higher prices themselves, he contends. "There's no free lunch for anybody."

But in border towns such as Texarkana, which lies smack on the Texas-Arkansas line, Arkansas retailers can't raise prices and still compete with rivals across town. Consequently, most furniture and appliance dealers and all 15 franchised new-car dealers have set up shop on the Texas side of State Line Avenue, which bisects the central business district. There, they can charge up to 24% for consumer credit.

Melvin Kusin, owner of Kusin's Texas Furniture Store in Texarkana, knows what it's like to do business in both states because he owns another furniture store in nearby Hope, Ark. Mr. Kusin says the Texas store has "subsidized" the Hope store since consumer lending was "flat cut off" by Arkansas banks last summer. "Without the Texas store, we'd have to add 8% to 10% to our prices across the board just to cover interest expenses."

The few furniture dealers staying in Arkansas have been fixtures there for nearly half a century. "Sure we'd be better off in Texas, but we own our own property here," says R. J. McNatt, whose Moore Furniture Store has been in business "within spittin' distance of Texas" for more than 40 years. "Sometimes, when I get to thinking about it, I get a little mad that they don't have my problems down the street," adds the unperturbable Mr. McNatt. "But it's too late to move now."

The new-car dealers in Texarkana are lucky that, by the early 1970s, they all had moved to the Texas side. "Arkansas has practically been cut out of the map" as far as the auto makers' finance companies are concerned, says Dennis Jungmeyer, executive director of the Arkansas Automobile Dealers Association.

In the past year, General Motors Acceptance Corp., Ford Motor Credit Corp. and Chrysler Credit Corp.—all bound to the 10% interest ceiling for consumer car loans—have imposed on Arkansas dealers restrictions unheard of in the other 49 states. For example, GMAC and Ford Motor Credit don't extend wholesale or retail credit on new non-GM and non-Ford products, and GMAC finances the sale of a used car only if it is traded in on a new GM model. Unlike elsewhere, all dealers in Arkansas have to pay for insurance on cars in transit to their showrooms, and they have to pick up the full tab when a vehicle is repossessed. They also must pay market rates—as much as 23% lately—to finance their own inventories.

TOLL OF AUTO DEALERS

The Arkansas dealers, accustomed for years to tight financing, have still found ways to stay in business. Last year, only nine dealerships folded or changed hands out of 390, according to Mr. Jungmeyer. But so far this year, 17 dealers have already gone out of business or changed hands, even though sales have improved somewhat.

For a while, some dealers managed to turn the disadvantages of 10% credit into a marketing tool: They advertised their cheap credit to customers in surrounding states. But now some finance companies refuse to grant 10% credit to anyone but an Arkansas resident.

Normally, the dealers would rely on local banks to lend the money to customers turned down by finance companies. But even with the federal law allowing banks to charge 15%, they aren't making many auto loans. Several Little Rock banks say they grant consumer loans only to their best customers and only in amounts exceeding $3,000.

"With consumer loans, you have to be sparing and lend only to stay in touch with your good customers," says Mr. Bowen of Commercial National Bank. And Joseph Ford, a vice president at First National Bank in Little Rock, adds, "We just plain can't afford to loan out money" even at 15%. Since last June, Mr. Ford has seen First National's outstanding consumer loans drop to less than $13 million from $17 million. "This lack of credit has got to hurt the young people and little people of Arkansas as well as the businesses," he observes.

In the wake of failures at the ballot boxes, bankers, retailers and car dealers are beginning to hope for help from higher, and previously unmentionable, places. "Nobody likes the idea of the federal government meddling with our business," says David Kilborn, general manager of Cliff Peck Chevrolet in Little Rock. "But that's about our last hope now." Several Arkansas legislators in Washington have introduced a bill that would provide federal interest-rate relief to retailers, and a New York congressman has proposed creation of a national usury ceiling that would override state-imposed limits.

If retailers and auto dealers in Arkansas can hang on until November 1982, however, federal help may not be needed. In March, the Arkansas legislature voted to put on the 1982 ballot yet another constitutional amendment that would raise the consumer-loan ceiling to 17%—which still would be the nation's lowest—while retaining the current penalty for violations.

But even the amendment's proponents aren't very optimistic that it will fare any better than the last three proposals. "It's pretty hard to convince a voter that 17% or 18% interest will end up costing him no more than the 10% he's paying now," Mr. Kemp of Dillard's says.

Others aren't sure that the proposed amendment will offer enough relief. "My worst fear is that the new amendment will be as obsolete as the old law by the time we get around to vote on it," says Jackson Stephens, chairman of Stephens Inc., a Little Rock investment banking firm. "But by that time," he adds, "things might be so bad that the people will demand a cure."

At this point, Mr. President, I yield to my distinguished colleague (Mr. PRYOR).

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. I appreciate the senior Senator from Arkansas yielding to me at this time. I would like to associate myself with the remarks he has so well stated on the floor.

Mr. President, last year during consideration of the Depository Institutions Deregulation and Monetary Control Act Senator BUMPERS and I were able to add a provision which removed certain usury restrictions while equalizing the treatment of State and national financial institutions: Since 1933 national banks had been permitted to charge up to 1 percent over the discount rate on any loan, notwithstanding any State usury law. Our provision allowed that same privilege to State-chartered banks, S. & L.'s and credit unions.

Now law, this authority and other usury preemptions have proved to be helpful to my State and, I am sure, the home States of many of my colleagues. Since the enactment of the legislation, however, we have come to realize that the coverage of the preemptions is too narrow. The legislation granted this added lending authority only to banks, savings and loans, mutual savings banks, credit unions and small business investment companies. Moreover, the thrust of the preemptive legislation last year was directed at business, agricultural and mortgage lending. Consumer loans were barely considered.

Excluded from the vital benefits of the legislation were automobile dealers, furniture and appliance dealers and other retailers as well as the consumers who needed credit to buy their goods.

To correct this omission Senator BUMPERS and I have introduced a bill which would allow any person—that is, any natural person or organization—to charge up to 1 percent over the Federal Reserve discount rate on any type of loan. This authority would expire on April 1, 1983, and States may override this Federal action at any time.

The need for this relief is clear. The

automobile dealers in my State are paying more than 20 percent for their floor plan but, under Arkansas' strict usury laws, can charge no more than 10 percent on car loans. During these times of high interest rates consumers cannot even turn to their local banks because the banks are making consumer loans only to a few favored depositors, preferring the higher rates of return available from out of State investments. Auto finance corporations like GMAC, Ford Motor Credit, and Chrysler Credit have either withdrawn from lending activities in Arkansas or imposed special restrictions which make lending unprofitable or impossible.

In 1981 the prime rate of interest fluctuated by 10 percentage points, and under these conditions a number of other States may at times find their usury ceilings well below market rates of interest. Last May a National Automobile Dealers Association survey showed that across the country half of all sales contracts for the purchase of cars was lost because of the inability of consumers to find financing.

In 1980, 1,600 auto dealers in the United States went out of business, with an estimated loss of 100,000 jobs. Others appear to be headed in the same direction. While usury laws alone cannot be held accountable for the dealers' distress, they are certainly an important factor. That is why the 20,000-member NADA supports relief legislation.

This relief would be applied to more than this one industry, however. Many small businesses have been operating at a disadvantage in some States—equipment dealers, furniture companies and appliance dealers are just a few examples. In addition, low interest ceilings are making it difficult for local units of government to borrow funds for needed municipal improvements.

Mr. President, approval of this legislation would be a boost in the arm for small business. Although no hearings have been held on this particular legislation, the Senate should have by this time a clear picutre of the harm that unrealistic usury laws do, and there is ample precedent for relief of this sort. I am pleased that the distinguished chairman of the Senate Banking Committee has agreed to hold early hearings on our bill and appreciate his courtesy on this matter.

I appreciate the courtesy of the Chair and the distinguished senior Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, I appreciate the statements made by both our distinguished colleagues from Arkansas. I will point out that there has been a commitment made by the chairman of the committee to hold a hearing on the point of concern of Senator BUMPERS and Senator PRYOR. Clearly, it is a concern that goes well beyond the State of Arkansas. I would say that automobile dealers in Indiana, and, as a matter of fact, most people who are in retail businesses throughout this Nation and in many fields of commerce, are equally concerned.

I can assure the Senator from Arkansas that the members of the Banking Committee, and I hope many more Senators, would be eager for a very careful examination of the issue.

Mr. BUMPERS. If the Senator will yield on that point, a lot of those automobiles we are not selling are made in Indiana.

Mr. LUGAR. That is so true. So we share that bond. I simply reiterate the point made by our distinguished chairman of the full committee (Mr. GARN) that there will be a hearing that will be, we hope, satisfactory to the request made by the Senator today.

Mr. PROXMIRE. Mr. President, may I say to my friend, the Senator from Arkansas, that I am inclined to favor a broad usury preemption, but I believe we should have a hearing in the Banking Committee and mark up the bill in committee.

I say that because the amendment of the Senator from Arkansas goes far beyond the preemption we passed last year. Last year, after full hearings, we preempted usuary limits on home mortgage loans and for federally related financial institutions.

This amendment would provide a preemption across the board, but limit the preemption to 1 percent in excess of the discount rate. After hearings, we may find that is too limited, or too much.

As I say, I have all the sympathy in the world for what the Senator is trying to do. We make automobiles in Wisconsin, too. American Motors is the principal plant there, and we have a big Chevrolet plant. We should address usury in a more comprehensive way.

Mr. President, I think the Senator is absolutely right in arranging with the committee for a hearing on this issue.

The PRESIDING OFFICER. Will the Senator suspend for 1 minute?

Under the previous order, the hour of 3:30 having arrived, a vote is now in order on the amendment of the Senator from Wisconsin (Mr. PROXMIRE).

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Senator from Arkansas be allowed to proceed for 1 minute.

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

Mr. BUMPERS. Mr. President, I appreciate that very much.

I thank both the distinguished floor managers for their understanding. I especially thank the chairman of the Banking Committee for assuring me that he will hold hearings on this very promptly.

As I say, I wanted to raise the issue to point out the critical financial situation in my State.

With that, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right.

The amendment (UP No. 135) was withdrawn.

UP AMENDMENT NO. 129

The PRESIDING OFFICER. Under the previous order, the vote now occurs on the amendment of the Senator from Wisconsin. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Maryland (Mr. MATHIAS), the Senator from Georgia (Mr. MATTINGLY), the Senator from Texas (Mr. TOWER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from Texas (Mr. TOWER) and the Senator from Wyoming (Mr. WALLOP) would each vote "nay."

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Ohio (Mr. METZENBAUM) are necessarily absent.

I also announce that the Senator from Georgia (Mr. NUNN) is absent attending the funeral of former Congressman Carl Vinson.

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

The result was announced—yeas 37, nays 53, as follows:

[Rollcall Vote No. 137 Leg.]

YEAS—37

Baucus	Eagleton	Moynihan
Bentsen	Ford	Pell
Biden	Glenn	Proxmire
Bradley	Hart	Pryor
Bumpers	Inouye	Randolph
Burdick	Jackson	Riegle
Byrd, Robert C.	Johnston	Sarbanes
Cannon	Kennedy	Sasser
Chiles	Leahy	Tsongas
Cranston	Levin	Weicker
DeConcini	Matsunaga	Williams
Dixon	Melcher	
Dodd	Mitchell	

NAYS—53

Abdnor	Goldwater	Nickles
Andrews	Gorton	Packwood
Armstrong	Grassley	Percy
Baker	Hatch	Pressler
Boren	Hatfield	Quayle
Boschwitz	Hawkins	Roth
Chafee	Hayakawa	Rudman
Cochran	Heflin	Schmitt
Cohen	Heinz	Simpson
D'Amato	Helms	Specter
Danforth	Humphrey	Stafford
Denton	Jepsen	Stennis
Dole	Kasten	Stevens
Domenici	Laxalt	Symms
Durenberger	Long	Thurmond
East	Lugar	Warner
Exon	McClure	Zorinsky
Garn	Murkowski	

NOT VOTING—10

Byrd, Harry F., Jr.	Kassebaum	Nunn
	Mathias	Tower
Hollings	Mattingly	Wallop
Huddleston	Metzenbaum	

So the amendment of the Senator from Wisconsin (UP No. 129) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to be proposed?

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will please be in order.

The Senator from New York is recognized.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I wonder if I could address the distinguished managers of this legislation for a moment with respect to the provision in section 205(a) on page 57 of the legislation which amends the Housing Act of 1937, to bring about one of the most extraordinary interpositions of Federal will and fiat to the affairs of local government that we have seen proposed in this Chamber in many years and which I daresay we have never——

Mr. STENNIS. Mr. President, the Senate is not in order. I am standing within 12 feet of the Senator and I cannot hear him.

The PRESIDING OFFICER. The observation of the Senator from Mississippi is well taken.

The Senator from New York will please suspend until we can have order in the Senate.

Will Senators wishing to converse please retire to the cloakroom?

The Senator from New York.

Mr. MOYNIHAN. I thank the Chair for its courtesy and I thank the distinguished Senator from Mississippi for calling the matter to the Senate's attention.

Mr. President, if I may repeat, we have in this legislation a proposal to interpose the judgment of the Federal Government in the affairs of local communities more stringent than any I have heard proposed in this Chamber, more than I believe has been proposed in the memory of Members of this body and no equivalent of which has ever been adopted.

Specifically, it is provided in section 205 to amend the Housing Act of 1937—that is about how far we go back in these matters—to provide that the benefits of section 8 housing may not be provided to any community which applies rent controls or rent stabilization to some or all newly constructed multifamily residential projects.

This is a wholly unexpected and in my judgment wholly unwarranted provision. It is just but one more of the matters which lead what was once a bipartisan and well supported program of the U.S. Senate now to have a bill before us which was reported out of the Committee on Banking, Housing, and Urban Affairs by a narrow margin of one vote. It is a pattern of polarization and partisanship which we had thought was behind us on certain measures such as social insurance, housing, and other matters of public welfare. It evidently is not and all the more is it to be deplored and to be opposed.

There is an elemental fact of the legislation that is now before us which is that it is a guillotine. The communities that have adopted rent control programs, stabilization programs—and they are all over; they can be found in all parts of the Nation—have done so by the normal democratic processes by which a city or town government makes such decisions. They extend over time. They involve legislation. They often and commonly involve referenda, and if they were to be repealed it would require time also.

This legislation does not even provide the minimum courtesy and the minimum acceptance of the democratic procedures of local government to provide a period of time in which to submit to the Federal dictation in such matters without being penalized, and without being deprived of their expectations under section 8 housing.

How strange and how inexplicable, coming in the aftermath of an election in which the new administration had proclaimed as almost its principal Federal purpose to get the Federal Government out of the affairs of local government. Here we find them coming into our homes through the keyhole of this measure to interfere with affairs of some 4 million people in the city of New York just as a beginning, with no hearings, with no consultations with the officials involved, much less the tenants involved. It imposes a national judgment on what is the most varied circumstances in our country, which is the nature of housing markets, the availability, the pressures on rents, the turnover in populations.

It is to me both inexplicable and wrong. It is one more aspect of this legislation which guarantees that it is going to have the least support of any housing bill that has been in the Chamber since the Housing Act of 1937 was in fact adopted. There will not have been in half a century a bill to receive such little support.

I recognize the fact of there being 53 votes in favor of any measure in this bill. We have just this moment seen 53 votes cast in opposition to an amendment by the Senator from Wisconsin, who has nurtured, developed, and cared for this legislation through almost a generation.

It is not the reputation of the Senator from Wisconsin to be a spendthrift. He is not noted for profligacy with Federal funds.

He is not generally thought to be a person given to inattention with respect to the impact of Federal programs on local governments.

It was with exactly a background of a carefully disciplined, coherent and sustained attention to the housing needs of this Nation that he just proposed a reasonable and necessary amendment, which was defeated by 53 votes, that number with which we are now familiar, and I am conscious that any effort to amend the bill with regard to this particular section would also fail, and I have no desire to see the conferees burdened with such a background when they meet with the House of Representatives, which will not accept this measure.

Yet I would like to ask the managers if they would not explain what I must say I find inexplicable as a measure. Suddently from nowhere a political viewpoint that asserts that the Federal Government must stop telling people what to do in their own hometowns is telling them what to do and then saying to you, "If you don't do it you will be denied that which otherwise would be yours," not merely as a matter of largesse of the Federal Government but as a matter of sharing public revenues raised equally in the communities to be affected as well as those that would be exempted.

I do not see how this is necessary; I do not even understand its genesis.

I wondered if I might ask the distinguished managers of the legislation what their view of the matter is and, in particular, what would be their view of a guillotine provision that does not even provide the communities that have such measures the opportunity to remedy their situations in order to avoid penalties.

I see my friend, the distinguished Senator from Indiana, the chairman, smiling at me. I hope it is not one of mild embarrassment, since that matter has come forward in the way it has, and I know he will ably represent that view, and I will be happy to hear him.

Mr. LUGAR. Mr. President, the Senator from New York has raised an important and certainly legitimate question, and I shall attempt to reply on behalf of the committee's deliberations as well as my own vote on the issue. The vote was 8 to 5, and I was one of the 8 to support it. We only included section 8 funds for new construction or for newly rehabilitated units in our action—and I think that is an important distinction—that which is new is the net input for which an application has been made. Moneys for new subsidized construction should not go into a community which has rent control.

The logic of this opposition is essentially that rent controls, in due course, limit the amount of building that goes on in a local community. There is evidence which appears to show the negative impacts of rent control on communities. In any case, those who are students of urban government have been exposed to books, magazine articles, and studies which have shown that rent controls have been debilitating with regard to the stock of housing in communities, whatever the social purpose of having such controls.

Section 8 is not a revenue-sharing proposition. It is not a distribution of funds per capita or by States. There is, in effect, no entitlement of a community or a State to section 8 funds. Applications are made by developers to the Federal Government for these funds. The funds are very limited, and clearly one of the arguments that we could have had today is that they are too limited. The needs are enormous. Section 8 has been a useful program, and the committee throughout, in a patient way, has tried to see how it could stretch Federal dollars so that they would bring about the greatest amount of decent housing for poor and moderate-income families.

Our judgment was that if we put money into communities which did not have rent control there was likely to be net gain of housing for the poor of that community whereas the net effect in rent control cities was likely to be less.

There are two additional arguments the Senator can raise which are important with regard to local government and federalism generally. I share the Senator's distress on these particular issues, namely, the effect on local governments.

If, in effect, this was a per capita distribution or a revenue-sharing matter——

Mr. MOYNIHAN. Mr. President, might we have order? The distinguished chairman is speaking to an important issue.

The PRESIDING OFFICER (Mr. DANFORTH). The Senator from New York is correct. The Senate is not in order. The Senate will be in order.

Mr. LUGAR. If, in effect, we were literally taking money away from a community which was entitled to it by formula, this would be even more of a serious problem. It is still a serious problem, and one that I am certain each of the Senators who voted for this amendment shares with the Senator.

I suppose it is balanced, at least in my judgment, by the problem that we have with assisted housing in general. In essence, we have been able to serve maybe one out of every 10 families or one in 12 families who are poor and ought to be served, and the question is how to stretch these dollars.

To avoid the problems of D'Amato-Armstrong amendment a community could remove rent controls. There will be a period of time in which this can be done. The section 8 provision we are talking about will not take effect immediately. It applies to fiscal 1982 and to fiscal 1983, in this 2-year authorization.

Cities will have time to take action. The Senator's prediction may be correct that the House of Representatives will not have a similar provision. The House committee voted 16 to 6 to defeat an identical amendment offered in their committee. Indeed we shall have an argument in conference about it.

I do not know where the conference will end up. But, there will be a period of time during which local governments' can attempt to find relief.

Mr. MOYNIHAN. Mr. President, I see the Senator from Wisconsin has risen.

Mr. PROXMIRE. Mr. President, I very much appreciate the remarks of my good friend from New York, and I always do. He is a marvelous Senator and a delightful person.

Let me say in the first place, Mr. President, that this is an amendment offered by the distinguished colleague of the Senator from New York, his distinguished junior colleague, and it is an amendment that I supported and voted for. It is an amendment—I stress the fact—that has been offered by the other Senator from New York because, of course, he has great experience in New York, too, and as the senior Senator from New York appreciates their problems, so does the other Senator.

It has been my judgment for a long, long time that whether it is price control, wage control, rent control, that they just do not work.

They do not work.

Now, you have a situation in New York City where I have found some of the most affluent people I know, very high incomes, who were all for rent control because they occupy beautiful apartments on Fifth Avenue or Park Avenue and other parts of that marvelous city. They have these apartments with a rent that is frozen and which gives them a very happy advantage.

Of course, the fundamental economic problem with rent control is it destroys any incentive to build rental units. You have to be an idiot these days, with inflation what it is, to build a rental unit with the expectation that you are going to be able to get a return on your income. Everybody knows, as I say, there are more tenants than landlords and the tenants have more political whammies than the landlords for that very reason and that has paralyzed the construction of rental units. It is one of the problems, along with the condominium problem and the tax problem, that has left us with a serious problem in the opportunity for people, particularly people with moderate incomes, to get rental units. So those are the economic reasons.

Now, the Senator points out a very interesting fact. This is, I think, the first significant housing legislation that has come to the floor in either body that is opposed to this kind of rent control. The Senator started out in his speech, as I recall, saying, "What real business does the Federal Government have in interfering in what should be a local determination?"

The answer, of course, is we are putting Federal money in there. When we put Federal money in there, it seems we have every right, in fact, we have an obligation, to see that the money is well spent.

As my good friend from Indiana pointed out, with rent control it means private rental units will not be constructed because the incentive is destroyed. It means we have to put funds in there to take the place of this deficiency and, for that reason, rent control is counterproductive.

I recognize the arguments on the other side, particularly the local argument, the local sovereignty argument. But, as I say, this is Federal money that we are concerned with now. I think we have every right, in fact a duty when we find a clearly counterproductive economic activity, to do our best to oppose it in the way we have.

People do not have to comply with this. All they have to do is say, "All right, we won't take your Federal money. We will continue our rent control." If New York City wants to do that, fine.

Mr. MOYNIHAN. Mr. President, I wonder if my good friend would hear me then just another moment. This is a subject which has been one of very considerable scholarly inquiry. I note that my friend from Indiana could only say that there appears to be evidence that rent control leads to abandonment and the decline of stocks.

I would have to say that is the strongest case you could make. John Gilderblum of the University of California has recently published a rather extensive study which concludes that communities with rather modest controls experience no reductions in building maintenance and none in building stocks. At Tufts, Prof. John Eckhart has, in effect, replicated the same study.

I would have to say to my friend from Wisconsin that he has used the words "rent control." But this legislation says rent control and rent stabilization. Now, I am not familiar enough with other parts of the country to know how common that is. But in the city of New York, it is the most common form.

Rent control, which in 1970 was involved with 1.2 million units—and the Senator is right, in the 1950's, Park Avenue was filled with duplex apartments in which mature couples were rattling around in a place where they once raised large families but it was cheaper to stay in their rent control buildings. Those are long since gone.

In 1970, there were 1.2 million units. By 1978, it was down to 400,000.

The main form of activity in the city of New York is rent stabilization and rent stabilization is voluntary in return for agreeing to stabilizing rents. Landlords agree to an 8-percent return on capital. It is an entirely voluntary choice the entrepreneur of the building makes. And most of them make it. It makes sense to them. It involves a subsidy by the city for housing. The city pays the subsidy and it judges that to be a useful thing.

The city subsidizes sidewalks. The city subsidizes street lamps and parks.

The builder has the free choice—and most take it, not all do, but most, depending a little bit on the sort of rental levels, most take this option.

Now, why are we going to impose on, let us say, the city of New York an activity which they engage in, which is entirely voluntary——

Mr. PROXMIRE. Mr. President, will the Senator yield on that point?

Mr. MOYNIHAN. I am happy to yield.

Mr. PROXMIRE. Mr. President, I think the Senator suggests what might develop into a reasonable compromise in conference. Because, as the Senator points out, and others pointed out, the chances are the House will not have this provision and we will have it. We will have to work out some compromise.

It may be that if we can find a way to have something like the volunteer system, which the Senator says that they have in New York City, I am not familiar enough with that to know, but, at any rate, what we need is some kind of provision that would enable people who build a rental unit to take care of their costs in an inflationary economy. We all know that the chances are overwhelming that for the next 10 years we are going to have to live with inflation, maybe 5 percent, maybe 10 percent, maybe 15 percent.

Under those circumstances, it is devastating for anybody who builds a building and expects to rent units not to be able to make some adjustments to the costs as they increase.

If we can work something out in conference, perhaps, which would make it possible for a person who wants to build a rental unit to have a real incentive, an expectation that he could have a reasonable return, I think that might be a very interesting and useful compromise.

I think that might be something we can give great attention to. But I think the Senate committee has made real progress. I hope the Senate will affirm that progress in taking a hard, cold look at what rent control has done in the past when it has not permitted some kind of adjustment of the kind the Senator describes in New York City.

Mr. MOYNIHAN. Mr. President, may I say that I am much reassured by the

statements of my friend from Wisconsin. I am not going to press the matter here, but if this matter is not dropped in conference, expect me to be on this floor as long as my breath lasts in opposition, because, I regret to say, the managers of this legislation have, in effect, admitted that they did not know the difference between rent control and rent stabilization.

Rent stabilization is a voluntary arrangement that the entrepreneur makes, calculating it out to maximize his return on capital. It is a judgment about how to maximize his return, freely made and freely entered into. It is not the business of the Senate to tell the city of New York that it cannot make a respectable arrangement, a voluntary arrangement, with builders that gives the builders the option of a fixed return at a lower rate of rent or to go into the market freely. Some do; some do not.

It is the kind of arrangement we want to leave to the people whose judgment is clearly best. How many times, from that side of the aisle, have we heard that the people of the grassroots know best and now we are passing legislation which is very clearly—I am sorry, Mr. President, I could not ever dream of speaking with disrespect, but the committee that passed this bill did not know what it was passing. It thought it was opposing rent control and it turns out there is a wholly different phenomenon called rent stabilization that in no way fits the criteria of rent control but is, nonetheless, penalized.

That is not good legislation. Once you go into conference, you drop the matter, and then have hearings and listen to the testimony of landlords. Ask 10 landlords from the city of New York, five of whom want the program and five of whom do not, and then see if any felt the worse and ask why they do or do not.

We do not know enough about this matter to adopt it now. I think that point having been made, and not desiring to invoke what will be an automatic partisan party majority, I will let the matter go.

Could I ask the distinguished manager a question? He knows my respect for him. He knows that I know what he has done in the city of Indianapolis. He was perhaps the greatest mayor Indianapolis ever had. Would I be wrong in thinking that the distinction between rent control and rent stabil'zation is just now being brought to the attention of the Senator?

Mr. LUGAR. The Senator is not correct in that assumption. This has been discussed during the markup. The distinction is a real one. I suppose the problem of finding the degree involved in stabilization is important, too. It may not be so voluntary as the Senator from New York implies. As the Senator from Wisconsin has suggested, it does offer some grounds for further discussion in conference and I submit that may be the appropriate forum for the next round of discussion.

Mr. MOYNIHAN. I know the reasonableness and openmindedness of the two managers of this legislation. I am prepared to entrust this matter to them and the views of the Members of the House. However, I do have to say that I think this was done hastily. In my view, the measure could not logically apply both to rent control, which is automatic and leaving no option, and rent stabilization, which is simply an arrangement which cities make with entrepreneurs.

With that, Mr. President, and thanking the two managers of this legislation, I yield the floor.

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

Mr. MOYNIHAN. Would the Senator have the kindness to allow me to make one further statement?

Mr. PROXMIRE. Yes.

Mr. MOYNIHAN. It is my understanding that Assistant Secretary designate of HUD Steven May, who is the former mayor of Rochester, said that the administration was not in favor of this amendment. Am I correct in my understanding?

Mr. PROXMIRE. It is my understanding that this is correct.

Mr. MOYNIHAN. Is this another case of a rebellious Republican majority refusing to concede to the legitimate concerns of the administration for the welfare of the people?

Mr. DOLE. Yes.

[Laughter.]

Mr. MOYNIHAN. Yes, it is. I thank the Chair.

Mr. PROXMIRE. Let me say it was a bipartisan combination.

[Laughter.]

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

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

The yeas and nays were ordered.

Mr. PROXMIRE. I yield to the Senator from North Dakota.

Mr. BURDICK. Mr. President, I rise to question the amendment to title V, section 503, that would allow the Secretary of Agriculture to stop the Farmers Home homeownership programs at his discretion, irrespective of the appropriations or authorizations passed by this Congress.

Mr. President, in rural America high interest rates are a serious problem and the vast majority of my rural constituents support the cuts in Federal spending that will lead, hopefully, to lower inflation and lower interest cost for all borrowers. However, when the inflation problem is licked, few rural borrowers will be able to go to private lenders for a market rate loan because transactional cost, low volume, and a high demand for agricultural product loans has meant that few private lenders make housing loans. The farmers home office is essentially the only lender for rural housing. Hence, I am sure this committee joins me in supporting the continuing viability of the rural housing programs.

The present low-income housing program gives interest credits so that low-income homebuyers, whose income is under $11,200, can afford modest housing. These interest credits, if necessary, make the loan an effective interest rate of 1 percent. Even at that paltry level, only those close to the income ceiling can afford the program. Under an amendment last year passed by Congress the moderate-income borrowers up to $15,600 income are eligible for interest credits on a sliding scale. In both programs, the amount the buyer pays increases with his increasing income and on resale the Government subsidy is recaptured.

Despite the mandatory language in the amendment, making interest credit available above $11,200, the Department has failed to issue regulations implementing the program and this committee amendment would now repeal that amendment. Hence, buyers above $11,200 would be required to pay market interest rates. Unfortunately, under the income ceiling of $15,600, no buyers qualify for a market rate loan. Although $500 million remains in the program for fiscal year 1981, after the $300 rescission, the money is not likely to be used.

Mr. President, it should be noted that the amendment would also give the Secretary discretion to end the interest credit for the low-income borrowers at any time despite authorization or appropriation levels. Ending interest credit for low-income families is unthinkable. This temporary subsidy has been part of the program since its inception and without it there would be no program. The chance this amendment would be exercised will cause such uncertainty that realtors and builders will avoid making buyers aware of the mere possibility of this program.

This amendment along with the present low-income ceiling, making so few buyers eligible for the program, puts its future in serious jeopardy. This amendment would work to the detriment of our rural Americans who share the highest levels of inadequate housing in America.

The committee report accompanying this bill mentions that the rural housing proposals came too late for any major review of the programs, objectives, and operations. It mentions that it has been 5 years since the committee last examined the rural housing programs and that the Rural Housing Subcommittee will conduct an extensive review of the programs and make recommendations to the Senate in the next authorization cycle.

When this amendment was considered by the committee, the Administrator of Farmers Home had not been confirmed. Because the impact of this amendment is so severe and so far reaching for the continuation of the homeownership programs, I urge that this committee withdraw the amendment and give the Department and affected groups the opportunity to fully air this issue. Such a delay should have no effect on the budget proposals of the President.

Mr. DOLE. Mr. President, the changes in section 8 of the Housing Act of 1937 proposed in S. 1197 to be voted on today, if enacted into law, would make changes in the Internal Revenue Code that are, I am certain, unintended. These changes to the code occur because a number of tax provisions cross-reference section 8 for a definition as to what constitutes low and moderate income and low- and moderate-income housing.

RENTAL HOUSING REVENUE BONDS

One of the most significant changes to the code would occur in an area we amended just last year: housing bonds. In the Omnibus Reconciliation Act of 1980 we limited industrial development bonds for housing purposes to low- or moderate-income rental housing bonds. Low or moderate income was defined by reference, through code section 167, to section 8 of the Housing Act. At the time, low income under section 8 was defined as 80 percent of the median for an area. Few of us, at the time, expected a change to that definition as great as that which S. 1197 mandates.

NEED FOR A TECHNICAL TAX CODE AMENDMENT

The remedy for this problem does not lie in an amendment of S. 1197, however. We should not attempt to amend the Internal Revenue Code without due consideration by using an amendment to a housing law bill as a vehicle. What is needed is a separate technical amendment to the Internal Revenue Code given prompt and full consideration by tax experts on both sides of the aisle.

Such an amendment would make clear that our intent in referring to section 8 of the Housing Act for a definition of low and moderate income in the revenue bond area was for administrative ease and not to inextricably tie the rental housing revenue bond program to a housing subsidy program. It would also, I trust, not spell disaster for the limited bond program carefully crafted in legislation only a few months old.

I would suggest to the manager of the bill that I plan to introduce a bill containing such an amendment to the code in the near future and would urge its prompt consideration by my colleagues on the Finance Committee. That statement is made because there are some concerns about that provision.

UP AMENDMENT NO. 136

(Purpose: To recognize the Kansas Department of Economic Development as a public housing agency)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 136.

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

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

The amendment is as follows:

On page 66, between lines 18 and 19, insert the following:

RECOGNITION OF KANSAS DEPARTMENT OF ECONOMIC DEVELOPMENT

SEC. The Secretary of Housing and Urban Development shall permit the Kansas Department of Economic Development to participate as a public housing agency for the purposes of programs carried out under the United States Housing Act of 1937 and as a State agency for the purposes of section 883.203 of title 24 of the Code of Federal Regulations as in effect June 1, 1981.

Mr. DOLE. Mr. President, the amendment I propose today would simply allow my State of Kansas to join the other 49 States in receiving its approved allotment of section 8 housing units this year.

We have a problem because of a department ruling. It has been suggested that we ought to call up the Secretary and tell him to change the ruling. I am not suggesting that we have not tried to do that. We have been in discussions at the staff level at HUD, but HUD's ruling that our State agency does not qualify is based on technical arguments which are both wrong and, in my view, inappropriate.

Without going into all the technical arguments, I would just suggest that as far as I know everyone in my State, the State of Kansas, and the Kansas City area office of HUD, believed that the KDED was authorized to administer the fund.

My amendment would not cost the U.S. Government a penny, because this housing has already been appropriated and approved and is waiting in the Kansas City HUD area office. Section 8 housing units will not be taken from other States. I am only trying to insure that Kansas does not lose its housing because of a technicality.

Our problem stems from a Department of Housing and Urban Development ruling earlier this year that the Kansas Department of Economic Development does not qualify as a public housing agency eligible to administer section 8 housing. Federal law provides that only such a State agency can administer these funds. Since Kansas has no other appropriate agency, our State will probably lose the section 8 units.

HUD's ruling that our State agency does not qualify is based on technical arguments which are both wrong and inappropriate when an entire State's low-income housing is at stake. Without going into all the technical arguments, suffice it to say that everyone in the State of Kansas and the Kansas City area office of HUD has believed that KDED was authorized to administer the funds. A lengthy Kansas attorney general opinion details the legal arguments that the Kansas legislature intended the Kansas Department of Economic Development to administer such a program. In January, the HUD office in Kansas City cleared the agency for this purpose. Everyone in Kansas—from the head of KDED to the small communities and the congressional delegation—has assumed that this agency would administer our section 8 units.

It is simply inconceivable that a Federal agency would use such trivial grounds to deprive an entire State of participation in this program.

Senator KASSEBAUM and I have urged HUD officials in Washington to reverse the earlier ruling. After much delay, there seems to be agreement that our State has a legitimate case, but progress has stalled once again. We cannot afford to wait any longer.

Kansas' allocation of 120 section 8 units is at stake. The HUD area office has these units available now for State agency set-aside. Work can begin tomorrow if KDED is authorized to administer the program. If not, there are two ways Kansas could lose the units entirely. First, without KDED, the area office will need Washington approval to convert the set-aside units to a different category which can be administered directly by HUD in Kansas City. No conversion approval would mean no Kansas units. Second, HUD must spend 70 percent of its funds by July 1 of this year. If KDED does not receive approval in coming days, the July 1 deadline will not be met and the units will be revoked.

With time running out while HUD refuses to act, the Senator from Kansas has no choice but to force the issue by proposing this amendment. Because both Senators from Kansas are joining in offering an amendment which only applies to our State, we anticipate no objection and urge the Senate to approve our amendment without delay.

Mr. President, I know of no objection to the amendment.

Mr. LUGAR. Mr. President, Senator DOLE's amendment obviously has merit and equity not only for the State of Kansas but for the bill. It is a pleasure to indicate our acceptance.

Mr. PROXMIRE. Mr. President, I am pleased to support the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (UP No. 136) was agreed to.

UP AMENDMENT NO. 137

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG), for himself and Mr. CHAFEE, proposes an unprinted amendment numbered 137.

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

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

The amendment is as follows:

On page 38, strike out lines 14 through 18 and insert in lieu thereof the following:

"(e) Section 213(d) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof a new paragraph to read as follows:

'(4) With respect to fiscal years beginning after September 30, 1981, the Secretary of Housing and Urban Development is authorized to retain a portion of the contract authority available during any fiscal year under the authorities cited in pargraph (1) of subsection (a) of this section, not to exceed 10 per centum of the available contract authority on an aggregate basis. Such contract authority shall be available for subsequent allocation to specific areas and communities, and may be used for:

'(A) unforeseeable housing needs, especially those brought on by natural disasters or special relocation requirements;

'(B) support for the needs of the handicapped or for minority enterprise;

'(C) applications for assistance with respect in housing in new communities;

'(D) providing for assisted housing as a result of the settlement of litigation.

'(E) small research and demonstration projects;

'(F) lower-income housing needs described in housing assistance plans, including activities carried out under areawide housing opportunity plans;

'(G) innovative housing programs or alternative methods for meeting lower-income housing needs approved by the Secretary.' "

Mr. ARMSTRONG. Mr. President, this amendment is offered on behalf of the Senator from Rhode Island (Mr. CHAFEE) and myself.

Mr. President, this amendment addresses itself to the so-called Secretary's discretionary fund in the section 8 housing program. It has been the practice to set aside some 20 percent of section 8 funding in a discretionary fund administered by the Secretary of HUD. The dollar amount of this is staggering. We are talking about 20 percent of a huge program, literally approaching $5 billion a year in discretionary funding.

Mr. President, I am concerned, as I have previously expressed to the Committee on Banking, that no Secretary of any administration ought to have—nor, indeed, should any official of the administration have—the kind of unguided discretion over a large program, involving huge amounts of money, that has been customary in the past. Just to give some idea of the potential for abuse which is inherent in this kind of unguided discretion, Mr. President, let me point out what happened on January 19 of this year, the last day of the prior administration. On that day, more than $2 billion in section 8 budget authority—and I did say billion, Mr. President, not $2 million but $2 billion in section 8 budget authority—was released from the Secretary's discretionary fund and was available for new proposals in section 8 housing units. Several aspects of this release, aside from the date on which it occurred, were worthy of note.

First of all, that two regions of the Nation, region I and region II, the Northeast, received more than 55 percent of the funds. Second, that some areas of the country, particularly the Northwest, which had just been hit by the Mount St. Helens volcanic eruption, received no funds.

Third, and I think this is what concerned me most, unlike past practice, funds were released for specific projects rather than to HUD local offices to determine how the funds could best be allocated to suit local needs. In other words, we are talking about the Office of the Secretary dealing directly with project contractors rather than through local officials, obviously opening the door to potential abuse.

Mr. President, I do not accuse anyone of abuse in this case, although I note for the record, as I did in committee, that there are substantial allegations of wrongdoing and hanky-panky and at least questionable practices raised by such newspapers as the Boston Globe, the Providence Journal-Bulletin, and the Washington Post.

Finally, in the release of nearly $2 billion of discretionary funds of January 19 of this year, I note that, although public housing projects are reporting significant budget deficits for this fiscal year, not 1 dollar of this nearly $2 billion that was released was allocated to shore up the deficits in existing projects.

So, Mr. President, my thought, my motive, and my purpose as we considered this bill in committee was simply to delete all authority for discretionary funds. As I sought to draft an amendment to do so, I looked in the law for that section which authorizes the discretionary fund. That is when I discovered the aspect about this whole discretionary fund of gigantic proportions which I find the most mind-boggling of all. That is there there is no statutory authorization for any discretionary fund of any size.

Well, Mr. President, I then thought I would offer an amendment which would simply make it unlawful to have a discretionary fund and, in fact, at another time, I may do exactly that. I really have doubts that there should be a discretionary fund of any substantial nature. But I have been prevailed upon by those who are interested in this program, particularly the Senator from Rhode Island, who has been an authority and a student on these matters, to moderate somewhat my own initial thinking and, rather than offer an amendment which would abolish or completely eliminate the discretionary fund, to reduce it to no more than 10 percent and then only to permit this fund to exist under certain guidelines which are contained in the amendment.

With that understanding, Mr. President, let me explain what the guidelines are. First, that the money shall be available for subsequent allocation to specific areas and communities—not to individual project contractors, but to areas and communities in the regular order so that we are not talking about the Secretary of HUD dealing with local developers or local project contractors.

Second, that we are talking about allocation for unforeseen housing needs such as those brought on by natural disasters or special relocation requirements; that the funds in this so-called discretionary account support the needs of the handicapped or minority enterprise; applications for assistance with respect to housing in new communities; lower income housing needs described in housing assistance plans, including activities carried out under areawide housing opportunity plans; and innovative housing plans or alternative methods for meeting lower income housing needs approved by the Secretary.

Mr. President, I wish I could report to the Senate that the language which is contained in the Chafee-Armstrong amendment is very tightly drawn, that it would give with great precision the kind of direction the Department should have. I cannot honestly so report. But it is a much better direction than the Department has ever had before. We are limiting, by reducing from 20 to 10 percent, the amount of the discretionary fund. Although I personally think it is too large, out of regard and deference for the Senator from Rhode Island and others, including the subcommittee chairman, who has indicated to me his desire to retain in the Department a degree of discretion, I have agreed to go along with this amendment. I hope that the Senate will also support it.

Mr. LUGAR. Mr. President, we are pleased to accept the amendment. I appreciate the good will of the Senator from Colorado, his instructive input in the committee and the refinements he has made today.

Mr. PROXMIRE. Mr. President, I am pleased to accept the amendment on behalf of the minority. I think it is so worthwhile, I want to be listed as a cosponsor. I am delighted to join the Senator from Colorado.

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

Mr. CHAFEE. Mr. President, this amendment would allow HUD to continue to set aside a portion of its assisted housing funds for discretionary purposes. To assure proper disposition of these funds, my amendment sets a limit on the funds that may be set aside, and specifies the purposes for which such funds may be used.

Currently, HUD maintains a Headquarters Reserve Fund created by regulations pursuant to section 213 of the Housing and Community Development Act of 1974. This fund, somtimes called the Discretionary Fund, serves many important program purposes and provides the Secretary with essential flexibility in addressing special housing-related needs.

For example, discretionary funds have been used for emergency assistance following natural disasters. When the floods of Hurricane Agnes washed away low-income housing, discretionary funds were used to replace housing that had been destroyed.

The fund is used routinely to meet handicapped needs. When local developer interest is inadequate to meet our handicapped housing goals, HUD frequently must advertise nationally. This can only be done if a central fund exists.

Discretionary funds are also used to experiment with low-cost alternatives to the present approach to assisted housing.

Mr. President, I am aware that use of the discretionary fund was the subject of some controversy during the final days of the last administration, but this is no reason to wipe out the fund entirely and hamstring this administration because of the activities of those before it.

This amendment would safeguard against abuse by limiting the amount and the application of the fund, but would leave HUD the latitude to assure its legitimate operations may be carried out.

I believe this is a most reasonable approach, and I urge my colleagues to accept this amendment.

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

The amendment (UP No. 137) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. LUGAR. Mr. President, I ask unanimous consent that a letter dated June 2, 1981, addressed to Senator GARN

from the National Association of Towns and Townships concerning a proposal to transfer the HUD Small Cities program to administration by State governments be printed in the RECORD at this point.

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

NATIONAL ASSOCIATION OF TOWNS AND TOWNSHIPS,
Washington, D.C., June 2, 1981.

Hon. JAKE GARN
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR GARN: I am writing on behalf of the Executive Committee of the National Association of Towns and Townships (NATaT) and our more than 13,000 small community members, to urge your support for President Reagan's proposal to transfer the HUD Small Cities program to administration by state governments. Although we do believe that some minor improvements are necessary to safeguard the interests of small local governments, we are convinced that a properly constructed state block grant program will prove to be the most efficient and equitable means for delivering community development assistance to needy small communities.

Our members—most of them are communities of less than 10,000 population—have experienced substantial difficulty in making use of the Small Cities program as it is now constituted. A simplified program, administered by state officials who will be armed with a greater knowledge of local needs and capacities, will reach the thousands of needy small towns which have not benefitted from HUD assistance in the past. HUD will retain monitoring capabilities which will assure that national policy is followed at the state level.

In order to make certain that small communities benefit fully from this new Community Development program, NATaT's support for this new initiative assumes that three provisions will be added to the proposed legislation:

1. State expenditures for administration of the program should be limited to a maximum of three percent of each state's allocation;

2. It should be absolutely clear that none of the funds distributed by the states will go to large cities. All grants must go to communities with less than 50,000 population;

3. State governments should be required to honor multi-year grant commitments already made by HUD.

It will also be very important to provide local governments with adequate information about the new Community Development system.

We are convinced that this new initiative represents the best hope for meeting the community development needs of America's long-neglected small communities. We urge you to cast your vote in their behalf, in favor of this proposal.

Sincerely,

ED KRUEGER,
President.

Mr. LUGAR. Mr. President, I ask unanimous consent that a letter dated April 29, 1981, addressed to Senator PROXMIRE from the National Governors' Association concerning the community development action grant programs be printed in the RECORD at this point.

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

NATIONAL GOVERNORS' ASSOCIATION,
Washington, D.C., April 29, 1981.

Hon. WILLIAM PROXMIRE,
U.S. Senate, Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR PROXMIRE: As you know, the Administration has proposed a number of changes in the community development block grant (CDBG) and urban development action grant (UDAG) programs as part of the FY 1982 HUD authorization bill. The legislation proposed by the Administration would provide state and local governments greater flexibility in the use of these important development funds and would establish a direct state role in administering the so-called "small cities" CDBG program. The National Governors' Association strongly urges your support for these reforms.

Many of the federal programs and tools that state and local governments have used to promote community and economic development are targeted for substantial reduction or elimination in the current round of budget cuts. The CDBG and UDAG programs are among the few remaining tools available to support state and local development and revitalization efforts. It is therefore extremely important that Congress enact the legislative changes necessary to provide greater flexibility in the use of these funds to address a broad range of development needs and activities.

Equally important is the need to provide a direct and meaningful role for states in managing a unified community and economic development block grant. As funding for categorical federal development programs is diminished, local governments are turning increasingly to the states for assistance. We are firmly convinced that states are in the best position to direct scarce development resources to the areas of greatest need. In our view, the transfer of administrative responsibility for the non-entitlement portion of CDBG from HUD area offices to elected state officials will assure more direct accountability for the use of these funds, and will produce funding decisions that are more responsive to local needs.

In recent years, the states have established an impressive record of achievements in designing programs and policies to aid distressed areas. The Administration's block grant proposal would build on the expertise states have developed in this area and would significantly enhance ongoing state efforts to promote community development and revitalization. As the Senate Banking Committee begins its mark-up of the 1982 HUD authorizations, we urge your support of the Administration's state block grant proposal.

Sincerely,

DICK THORNBURGH,
Governor of Pennsylvania, Chairman, Committee on Community and Economic Development.

WILLIAM F. WINTER,
Governor of Mississippi, Vice Chairman, Committee on Community and Economic Development.

Mr. DODD. Mr. President, I would like to take this opportunity to engage in a brief colloquy with the distinguished Senator from Indiana (Mr. LUGAR), the chairman of the Subcommittee on Housing and Community Development. Since the inception of the community development block grant program, the use of funds for public service activities has been subject to various limitations, including a restriction to areas where other physical development activities were being undertaken in a concentrated manner.

HUD has had a great deal of difficulty in implementing this limitation and, in fact, it was not until March 1978 that the Department issued regulations limiting these eligible services to neighborhood strategy areas. Even then, a phaseout period was provided. Given this difficulty in administration and a recognition that there is a need to provide local officials with increased flexibility in the use of CDBG resources in light of budget reductions and increasing demand for these funds resulting from the consolidation of related programs, the committee bill removes this limitation, but continues to preclude the use of funds if these services were provided with local resources within the prior 12-month period.

While I believe this maintenance of effort requirement is appropriate, I believe there is a need for some transition particularly as a result of the prior administrative difficulties. For example, the city of Hartford has been using CDBG funds to provide services, in senior centers Many of these centers are not located in NSA's and beginning in the upcoming program year, the city will not be able to use block grant funds.

However, under the committee bill, if the city picks up these costs from local funds, they will not be able to fund these services with block grant funds in the succeeding year. Given the lateness of the implementation of the prior provision and the pending change, I was interested as to the chairman's opinion as to whether this type of situation would qualify for a waiver of the 12-month requirement?

I notice in bill that the Secretary may waive this maintenance of effort requirement if the discontinuation of funding was due to circumstances beyond the control of the applicant.

Mr. LUGAR. The Senator is correct in stating that part of the reason for this change results from the difficulties experienced by HUD and localities in establishing an appropriate linkage between public services and concentrated physical development activities. The 12-month requirement was added to the law in 1977 to avoid situations in which CDBG funds simply would be substituted for local resources.

While it is my intent that the use of CDBG funds for public services continue to be directed to either new or an increased level of activity, I would agree that the Secretary should interpret the waiver provision liberally during the transition to the broader eligibility for public service activities provided in this bill. Depending upon local situations, I would agree that the prior inconsistencies in administration could present a circumstance beyond the control of the applicant.

Mr. DODD. I was interested further, as to whether the chairman would also agree with me that HUD should look favorably upon requests in the program year immediately preceding enactment of this change from cities which wish to continue funding such services from CDBG resources?

Mr. LUGAR. Again, I believe the Secretary should be reasonable in reviewing

these situations in recognition of the need for an appropriate transition. We certainly do not want to create a situation where localities are put in the position of either having to discontinue needed services or shift resources from other ongoing activities in anticipation of this change. Both prior and subsequent to the enactment of this provision, I believe the emphasis should be on local determination and flexibility.

Mr. DODD. I thank the chairman for his cooperation in this matter and commend him for the accommodations he has extended during consideration of this bill to Members on both sides of the aisle.

Mr. LUGAR. Mr. President, as you know the Banking Committee ordered S. 1197 reported to the Senate on May 5. Included in our bill is an extension of Federal flood insurance authority for 2 years. Unbeknown to the committee, the Comptroller General had issued an opinion affecting an important provision of the agreement between the Federal Emergency Management Agency and the pool of private insurance companies and their agents which produce the flood insurance.

This provision imdemnifies the companies and their agents from all judgments for damages as a result of court action by policyholders or applicants arising out of or caused by acts or omissions of FEMA in carrying out direct billing or policy issuance procedures controlled by FEMA to the extent that FEMA is responsible and the companies or agents have not caused or contributed to the liability. This decision, Mr. President, was based on the Comptroller General's conclusion that no appropriation has been made available for payments under the indemnity clause.

The result of the deletion of this so-called hold harmless provision is to make the companies and agents reluctant to participate in the national flood insurance program since private errors and omissions insurance does not cover damages and legal costs arising out of the Federal Government or its contractors. Therefore, we have a dilemma which should be resolved in order to sustain the progress which has been made in implementing the national flood insurance program.

Private insurers have asked us to consider an amendment to the Flood Insurance Act which would restore indemnity. We have yet to hear from the administration on this matter and are anxious to receive its counsel. The committee intends to resolve this problem of restoring protection with all due speed and recommend appropriate corrective action to the Senate at the earliest opportunity.

Mr. CRANSTON. Mr. President, I am voting against final passage of this bill. This decision was not made lightly. I have always been a supporter of housing legislation; however, this bill contains many provisions which I consider ill-advised and others which I believe are unduly harsh when considering the needs of low-income people. As a response to a national housing crisis it is remarkably threadbare. In short, the only housing policy reflected by the bill is one of disinterest on the part of the administration and the committee's Republican majority to the needs of Americans for decent housing.

The CDBG changes in title I of the bill are enough to convince me not to vote for this bill, but there are other provisions contained in S. 1197 that I find troublesome. Under the guise of reducing Federal spending, the administration is attempting to gut the housing program.

Democrats on the committee are committed to trying to develop increased opportunities for housing in this country, which led to our amendments in committee. First, increasing units for the housing of low income and elderly persons; second, reducing the cost of housing by permitting single room occupancy; third, reducing room size to reduce the cost of units; and fourth, transfering of $1.1 billion in budget authority targeted for the sale of public housing financing instruments to the Federal financing bank for additional housing units. These amendments reflect a concern for human beings, not just numbers, as the administration proposes.

The new administration and the Republican majority have combined to reduce severely the amount of assistance low- or moderate-income people will receive from the Federal Government. Their proposals will only push the poor deeper into poverty. Subsidized housing has been especially hard hit. President Carter proposed funding for 260,000 units of federally subsidized housing in his budget for 1982. In proposing its final revised budget, the Reagan administration recommended that assisted housing be reduced to an all time low of 175,000 units. The Republican majority on the Banking Committee was even less compassionate than the administration. They voted for only 150,000 units.

In addition, the administration recommended, and the majority agreed, that only 45 percent of the units are to be new construction or substantially rehabilitated housing. If these proposals are adopted it will be even more difficult for low-income people to find decent, safe, and affordable housing.

The administration has asked Congress to eliminate the "Ginnie Mae" tandem program of 7.5-percent mortgages to developers of low-income housing. This position was adopted in the bill. It is also considering limitations on the 11(b) tax-exempt financing authority. Tandem and 11(b) financing make up the bulk of financing for low-income housing. Many supporters of low-income housing believe that without this below-market financing, it will not be economically feasible to build low-income housing. With cutbacks in assisted housing and developer financing where will low-income people be living in the future?

I take issue with the proposed increase in the tenant's contribution toward rent. The bill raises the contribution from 25 percent to 30 percent of the tenant's income. Although it will be phased in over a period of 5 years, the Federal Government would squeeze an extra $1.72 billion from poor people which represents a 20-percent out-of-pocket increase for all tenants. This proposal amounts to Government-sponsored inflation and is severely harsh on those people who already have limited resources on which to exist.

Another provision that I have serious reservation about is the prohibition of illegal aliens from receiving Federal housing assistance. I can foresee many abuses to citizens by authorities attempting to determine whether one is an alien or not. I do not believe that the committee's response to this problem has been carefully thought out to protect against violations of the civil rights of low-income people be they alien or not.

Mr. President, it is for all of these reasons that I have determined that I cannot support this bill. I ask my colleagues to consider the implication of the policy set forth in this legislation and if they agree that this is not a housing bill but an antihousing bill, I hope they will join with me in voting against it.

Mr. BRADLEY. Mr. President, I oppose the adoption of S. 1197, the Housing and Community Development Act Amendments of 1981, because I believe it abandons moderate- and low-income families—those persons who in today's housing market cannot qualify for home mortgages and cannot afford the skyrocketing cost of unsubsidized rental housing. Congress created HUD in 1965 to provide for full and appropriate consideration at the national level of the needs and interests of the Nation's communities. We established a national housing goal in 1949 and reaffirmed it in 1968—"a decent home and suitable living environment for every American family." Millions of Americans have no answer to how they will take care of their housing needs. Unfortunately for them and for us, the private sector without any subsidies cannot provide them with one.

The housing industry is in its longest postwar decline. Due to sharp increases in interest rates, builders cannot get construction loans at rates that allow them to build moderately priced homes. Potential purchasers cannot qualify for or are reluctant to accept 15 to 16 percent mortgages. Unsubsidized multifamily rental housing is not deemed profitable to build—particularly for moderate- and middle-income families. For low-income families unsubsidized housing is out of the question. And existing housing stock is insufficient to house the population. The Senate Banking Committee proposal for 150,000 assisted units fails to recognize the dimensions of the problem. Even given the conflicting interests of reducing total Government spending and providing adequate housing, the cut in the level of assisted housing is excessive and unnecessary.

The shortage of unsubsidized rental housing has become an increasing problem since the late 1970's and is expected to reach epidemic proportions in the 1980's. The reason given is that the building and financial industries perceive rental housing as a bad investment. Unfortunately, stimulating new investment in the private unsubsidized multifamily rental market would result in a 25-percent increase in market

rents. This would not solve the problem of unavailability of housing to many moderate- and most low-income families. Therefore the only option is Government subsidized housing. The problem of determining a more economical way to produce housing for moderate- and low-income families is one we must address. However, until we have determined a method, the responsibility to adequately house our citizens remains.

This legislation also fails to recognize the harmful effect the current collapse of the construction industry has on the economy as a whole. The home building industry has been in a decline for 28 months and expects the decline to continue for at least 3 to 6 months. In this situation most builders and suppliers cannot survive. Increasing numbers of builders are facing bankruptcy, and with them will disappear thousands of construction jobs.

The Senate committee bill will have a strong impact on many communities. Using the State of New Jersey as an example, under the committee bill New Jersey can expect to receive approximately 3,900 units in fiscal year 1982 compared to an expected 6,697 units under the fiscal year 1981 appropriation. Under the committee bill the New Jersey Housing Finance Agency can expect 700 units of new and rehabilitated low- and moderate-income housing when the agency's capacity is between 5,000 and 7,000 units per year and the State's need exceeds this capacity by 200 to 300 percent annually.

The Senate committee housing bill also fails to provide for the promotion of communities by folding several effective programs into community development block grant program without an increase in funding. It will be impossible to effectively carry out the section 312 rehabilitation loan, the section 701 comprehensive planning assistance, the neighborhood self-help development, weatherization assistance and CSA's community economic development programs under the committee proposal. I support the views set forth by my Democratic colleagues in the Senate committee report on S. 1197 in opposition to title I of the bill. The purpose of the community development block grant program will not be carried out under the proposal. Although the committee recognized the importance of separating UDAG from CDBG it erred substantially in diluting citizen participation in the local community development process, in eliminating the linkage of housing assistance and community development and in failing to determine the impact of the proposed substantial changes in the community development component of the bill.

The defects of the Senate committee bill are so glaring that I must oppose its passage and I urge my fellow colleagues to do likewise. I am encouraged by the unanimous vote of the Democrats on the committee against reporting out the bill and suggest that we follow their studied action.

Mr. DURENBERGER. Mr. President, in a narrow sense, title I of this legislation only makes technical changes in the CDBG program. It changes HUD's prior approval role on the CDBG plans of communities. It reduces the level of citizen participation previously mandated by the Federal Government. It also allows the States a potential role in the small cities grant program.

However, in the larger perspective it sends a clear signal to HUD and the cities that the Senate is backing off its long-term commitment to target these funds primarily for the benefit of low- and moderate-income families and individuals. In 1974 when the administration was proposing special revenue sharing for community development, the Senate wanted to require that 80 percent of the money be used to directly benefit low- and moderate-income families. The House has always been somewhere between the Senate and the administration. The bill and the report contemplate much more local discretion and much less Federal targeting of the funds.

Local discretion is a valuable principle and it is important that the Federal Government encourage it where appropriate. I am glad to see that the President is committed to moving ahead in this area. GRS is a good example of a program that provides almost complete freedom in deciding how Federal funds may be used. GRS deserves the support of the Senate. There are two good reasons to support it. First, the Federal Government in a variety of programs and regulations puts heavy mandates on State and local governments. These mandates are expensive to implement. They reflect Federal policies and purposes, and the Federal Government ought to provide the funds to carry them out.

Second, not every community has an adequate fiscal capacity to deal with the problems it faces. And certainly the capacity is not equally distributed across States and communities. There is a justifiable Federal purpose in a program like GRS to equalize capacity to some extent. And the GRS formula tries to accomplish that objective by recognizing tax capacity and tax effort explicitly, although one may argue about the success or failure of that formula.

So it is appropriate to have a program like GRS that sends Federal funds to States and cities with complete latitude provided to Governors and mayors, legislatures, commissions, and councils to spend on programs that are recognized for whatever reason as appropriate endeavors of local government.

But this commitment to GRS and even a commitment to reduce the regulatory burden on State and local governments, does not mean that every program should be structured like GRS.

CDBG was not intended by the Congress to be general revenue sharing or even special revenue sharing as the Nixon administration proposed as part of the process that created this block grant. Rather it was designed to replace categorical grant programs where the Federal purpose was not equalization or compensation. The purposes of the programs replaced was very explicit. They were designed to assist persons of low- and moderate-income break the cycle of poverty that existed primarily in inner city neighborhoods and was due in part to the physical condition of those neighborhoods. The Senate has always insisted that this basic Federal purpose be preserved in this program.

Part of the process of providing flexibility to local governments while preserving the Federal purpose in a program is to change the method of allocation from discretionary grants made by Federal departments to formula grants with entitled jursidictions. That modification is reflected in the CDBG block grant. But it should be clear that no one can write a formula that preserves entirely the Federal purpose. The entitled jurisdictions are much larger than the neighborhoods that we intend to benefit. This failure in the ability of the formula to target was recognized in the first 2 years of CDBG. It resulted in more targeting through HUD regulations and the reauthorization in 1977. The targeting, effected through prior HUD approval of CDBG plans, assists that formula allocation and by the way assists local officials in achieving the Federal purpose.

This is not to say that all agree that there is a Federal purpose in community development. In fact, I am one who believes that the solution to "community development" problems would be much more likely from another source. Programs like CDBG treat the symptoms of fiscal distress in cities that result from a separation between the wealth that a city creates and the places where that wealth is invested. If the mayors could reach out to the tax base of the suburbs they would not face this kind of distress and Federal treatment would not be necessary.

There are also communities in the Nation where metropolitan government works to share the problems of housing, employment, and development with all communities within a region. In fact, these structural solutions which are available in most if not all of our major cities would in the long run be a better solution to the community development problems than programs like CDBG. And the long run might be considerably shorter, if the Federal Government got out of the community development business.

But so long as we are about community development, so long as we claim that there is a Federal purpose here, we ought to be sure that the Federal funds provided go to that purpose and not to community development generally. This is to suggest that "community development" is a very broad function of Government, but that the Federal purpose in community development is much narrower than the broad function. Those community development projects in which the Federal Government has no interest are not by that designation illegitimate. They are simply local, no more—no less. And by the same argument, not everything that is community development is a Federal purpose and not everything that is community development should be supported by Federal funds.

My argument concludes by saying to my colleagues that I think that we are mistaken, if in the name of more discretion to local officials we broaden the

Federal purpose in community development. In fact, as I have said, I think we should greatly narrow the Federal role because the structural solution that is available to the States and their cities is far more promising. Paradoxically, this belief that the Federal role should be narrowed leads me to believe that the Federal Government should be even more explicit in targeting those funds it will be expending. This can and should be done in conjunction with regional government planning.

For these reasons I think it is imperative that we find a way to continue to have a prior review system. I am hopeful that we can continue the best aspects of the present system while finding ways to ease the application process burden. Toward that end and in order to gain further input from those most directly affected by the block grant process, I will be holding hearings on this subject in the Intergovernmental Relations Subcommittee on Government Affairs.

Mr. TSONGAS. Mr. President, this legislation will seriously undermine our community and economic development efforts in Massachusetts and throughout the Nation. It will target the low-income family and elderly housing tenants for severe economic hardship.

The changes in housing programs are a major blow to poor people. First, the administration stripped the poor of their basic services including housing, and raised low-income housing rents. Now the Senate proposed to extract the final pound of flesh by forcing cities to choose between rent controls for tenants outside public housing and rent subsidies for tenants inside public housing.

The changes in community development programs are unnecessary, since they were reauthorized in the last Congress. More importantly the are dangerous, because they take away controls on how community development funds are spent. The proposed change in small cities program administration has received only a cursory examination, and would place another layer of bureaucracy between local and Federal Government. I believe that necessary regulatory reforms and reductions in paperwork should and can be made without this massive effort to weaken the law. Under the guise of eliminating these burdens the administration is actually wasting the taxpayers money.

It is clear that the issues are not dollars or programs, but philosophy. The administration could have an economic recovery program with the cities as partners, but they have chosen to make the cities their victims. I have worked on seven major housing bills since I came to Congress, but I cannot support this bill. It represents a major retreat from the programs and principles which have proven workable and effective.

● Mr. CHILES. Mr. President, I want to say a few words in opposition to the Banking Committee's move to terminate the authorization for the Federal crime insurance program (FCIP).

The FCIP provides residential and commercial insurance at reasonable rates for persons who are otherwise unable to obtain crime insurance because they are located in high crime areas. The program has been in operation for nearly 10 years now, and it insures approximately 80,000 people across the country.

The program recognizes that fighting crime, in the long run, involves more than increasing our law enforcement budgets. It recognizes that one important way to turn around our crime problem is to encourage people to build stable neighborhoods and to attract businesses to an area. A neighborhood where people know one another is a neighborhood where people will help one another to keep criminals out. It is tough to get people to move into an area and revitalize it unless you provide them with some incentives. The FCIP provides an incentive by giving people who want to revitalize a community the crime insurance that they would be unable to obtain on the commercial market. By taking away that incentive, we hamper this rebuilding effort and we do little to fight crime in the long run.

Mr. President, nearly 5,000 of the FCIP policyholders live in my State of Florida. Most of those who hold policies are in Dade and Broward Counties, areas which have been hard hit by crime. Many of these policyholders live in high crime areas, and are trying to revitalize these areas. Just last year, Miami was torn apart by civil disturbances in the Liberty City area. Today, people are trying to rebuild that community, and to attract businesses back into the Liberty City area. Insurance companies are helping in that rebuilding effort. Just after last year's disturbances, a group of major insurance companies in the Miami area met with Florida's insurance commissioner, Bill Gunter. After the meeting, the insurance companies told Mr. Gunter that they would continue to underwrite riot reinsurance policies in Dade County. To my way of thinking, this shows that our State governments and our private insurors want to do their part to help rebuild. Today, the Banking Committee's action sends a message out that the Federal Government is not willing to do its part.

Mr. President, the Banking Committee seems to be saying that either giving the crime insurance program an authorization or allowing the crime insurance program to use its borrowing authority is too high a price to pay. I can understand the committee's desire to save money and reduce Federal spending. I am in favor of balancing the budget, and I have worked long and hard to reduce Federal spending. But today, I am concerned that we are being pennywise and pound foolish. We may save money today, but it may end up costing us far more in the future.

I can understand the committee's concern over the imbalance between the amount paid out in claims and the amount collected in premiums under the crime insurance program. But I am not sure that it is a valid reason to terminate the program. This imbalance, a 3 to 1 ratio, should not really be surprising, since the very purpose of the crime insurance program is to insure people who live or do business in high crime areas. If there were no imbalance, then either the private sector would be involved in underwriting policies, or else the premiums would be prohibitively expensive.

Moreover, in some areas, this imbalance simply is not that high, yet these areas are being unfairly penalized. In Florida for instance, last year $857,000 was paid out in claims and $459,000 was collected in premiums under this program. If we want to reduce the imbalance in the program, then we ought to be looking for ways to change the program. We should not simply throw the program away, and leave all these people with no protection.

Mr. President, at this late stage of the bill's consideration, I will refrain from offering an amendment to restore funding for this program. My understanding however, is that the House presently favors continuing the crime insurance program in some form. So I would hope that the Banking Committee will reconsider its actions when this measure goes to conference. We need this insurance program if we are to effectively turn around our crime problem and rebuild our cities.●

● Mr. WILLIAMS. Mr. President, I regret that I must oppose this bill. I do not take this step lightly because I am fully aware that the legislation contains a number of important, even necessary provisions. But, the bad far out weighs the good. This bill would have us waste millions of dollars in community development funds at the same time that it picks the pockets of the poor in an effort to cut Federal housing assistance expenditures. Mr. President, if ever a bill deserved defeat, this one does.

Mr. President, I should like to outline some of the more egregious features of this legislation.

The community development block grant program was developed in 1974 to simplify our delivery of community revitalization funds. It has enjoyed wide support from those on the local level who put it to use. The program represents a careful fusion of local flexibility and the advancement of broad national objectives. The bill, in my view, would rip this structure apart, overloading the program with local flexibility at the same time that it overturns the Federal Government's responsibility to see that the program, in the interests of all taxpayers, truly accomplishes its objectives. The bill would deny citizens meaningful participation in the development of local block grant programs.

It would blur the program's present focus on low- and moderate-income persons, and it would reduce the ability of the Federal Government to monitor and guide the program's operations. The committee's rewriting of the program was based on the majority's unhappiness over the regulatory burdens that it perceives the present law places on localities. However, it should be pointed out that to the extent the program creates unwarranted regulatory requirements for communities, they result from the administration of the statutes. It would make more sense for the administration to provide regulatory relief by overhauling its own procedures that created the burdens in the first place.

It is especially ironic that while the bill purports to act in the interest of localities, the representatives of those localities in Washington have urged the committee not to change the program as the bill has proposed. These representatives, as well as committee members, had virtually no opportunity to examine and assess the proposed changes, since the administration's recommendations appeared at the committee the night before the HUD Secretary and public witnesses were scheduled to testify on the administration's 1981 housing and community development legislation. Moreover, the committee rushed to markup the proposed revisions within days of their submission by the administration. I cannot believe that such hasty, unconsidered action furthers the administration's stated goal of more deliberate, efficient Government. To the contrary, the bill almost invites communities to disregard the program's fundamental purposes in their use of program funds. After all, if the Federal Government is willing to scrap provisions designed to promote proper use of the funds, we can expect communities to draw a most unfortunate conclusion—that the Federal Government is losing its interest in overseeing this program, that the Federal Government does not really care whether the program goes to aid the poor or to upgrade distressed neighborhoods.

Ironically, a recent General Accounting Office report provides clear evidence that the program, as it is now, is too loosely monitored, and that funds are being diverted to highly questionable public purposes including ice skating and music lessons and rehabilitation assistance for persons with upper incomes. In the face of this criticism, and the GAO's specific recommendations for tightening the program's protections against waste, the administration and the committee majority would tear down these protections. For an administration so publicly committed to rooting out waste and fraud in Federal programs, the proposed revisions of the block grant program, which the committee adopted constitutes an act of bad faith.

Mr. President, what this bill does to the community development block grant program would be reason enough to oppose it. But, in moving from title I to title II, which deals with housing assistance programs. the bill goes from bad to worse. This bill lashes out at the poor. It punishes the poor as if being poor is not punishment enough.

It lowers the weight of our budget cutting exercise on the backs of those least able to bear the load. In approving for fiscal year 1982 a housing assistance level of only 150,000 section 8 and public housing units, some 25.000 units below that proposed by the President, and 60,000 units below that authorized for fiscal year 1981, the bill signals the virtual end of the Federal Government's commitment to better, more affordable housing for low-income persons. High interest rates have almost totally choked off private apartment construction, and the housing stock is suffering a net loss of as many as 300,000 multifamily units a year to conversion, abandonment, deterioration, and demolition. The bill will do nothing to bridge the growing gap between the amount of housing we need and what we are actually producing.

Not content to chop away housing assistance, the bill also seeks to soak the poor with additional rent. Under current law, assisted housing tenants pay 25 percent of their income toward the rent. The bill would raise that contribution to 30 percent. Almost one-third of a low-income person's income would go for rent. We can imagine how this kind of burden would bust the budgets of low-income people forcing them to make cruel choices among basic needs.

The bill's supporters claim that this increase in rents is necessary to promote greater equity between those few in assisted housing who enjoy a much lower rent obligation than the many who have equally low incomes but who do not live in assisted housing. Frankly, I fail to see how an increase in rent contributions for assisted housing tenants translates into any benefit at all for those currently unassisted. Unassisted tenants would continue to pay very high rents, or live in substandard housing, while those in section 8 or public housing projects would receive a jump in their rents. Equity would be better served if we expand the amount of assistance to those in need, rather than heaping more hardship on those we are now assisting.

The bill also attempts to inject the Federal Government into the issue of local rent controls by withholding section 8 new construction funds from localities with rent controls on new and vacant multifamily units. Not only is this an unwarranted intrusion by the Federal Government into local prerogatives, but it uses the poor as a lever to enforce a Federal policy preference. Rent controls are usually imposed after a great deal of public debate, sometimes bitter debate, and in response to serious housing shortages and climbing rents. We can hardly expect a community to reopen this debate just to secure a few section 8 units.

The provision also imposes the restriction immediately upon enactment, thereby applying the sanctions before communities have had a chance to take the action that the bill contemplates. Considering that it takes some time to adopt rent controls, especially in localities that approve them through referendum, we can expect that it would take some time to remove them. The bill fails to take this important fact into account.

The provision has other serious flaws in concept as well as in application. Its supporters contend that rent controls inhibit new apartment construction, and therefore to provide section 8 assistance to these communities would in effect bail them out of troubles that they have caused for themselves. Section 8 subsidizes too few new units to have any measurable impact on housing supply in individual communities. Thus, in no way can section 8 new construction allocations be considered a bail out for communities with housing shortages. Moreover, even if the removal of rent controls spurs the construction of multifamily projects, this rebirth of production would not mean greater construction of rental housing for low-income people. Rather, the increase in production would only affect apartments for middle- and upper-income renters. This is because local rent controls apply to private, unsubsidized construction, not to projects carrying a Federal subsidy.

Since virtually all low-income housing produced today is federally subsidized, not subject to local rent controls, the bill's antirent control provision would hold the poor hostage to effect a change that can only inure to the direct benefit of middle- or upper-income renters. There is great danger, as well, that when communities with rent controls realize that it is possible for them to keep out new section 8 projects and still receive community development block grants, they may find it in their interest to retain their controls.

Mr. President, this bill stands in stark contrast to the law's long-term commitment to decent affordable housing for our people. It stands as an example of how we have truly failed to honor that commitment. It seems to me that we would be better off to defeat this bill and seek the necessary reauthorizations and program extensions in some other manner. I urge the Senate to take this action.●

● Mr. GARN. Mr. President, last year at this time the Senate was considering the Housing and Community Development Act of 1980, and title V of that act contained national legislation for tenants in condominiums or cooperatives undergoing conversions, and legislation designed to provide judicial relief for Florida condominium owners subject to recreational leases containing automatic rental increase clauses.

While I did not oppose those provisions, enacted last year, to provide some judicial relief for holders of long recreational leases which were found by the courts to be unconscionable, I did object to the beginnings of Federal Government intervention into local condominium conversion matters.

I continue to believe that Federal regulation of condominium and cooperative conversion activity is both inappropriate and unwarranted. It is inappropriate because conversion related problems vary significantly between housing markets, and thus cannot be solved by one, uniform national law. Unlike a national law, local conversion legislation can be designed to suit the individual characteristics of local housing conditions, which differ according to rental vacancy rates, trends in the rental market, and the percentage, ages, and incomes of displaced tenants.

Local conversion regulation can be sensitive to housing priorities and policies of the community, including the decision to discourage or assist condominium conversion activity. Conditions in New York are not the same as conditions elsewhere, and require a different legislative approach best determined at the local level.

In short, controls over the conversion of rental housing to condominium ownership, and consumer protection for ten-

ants in converting housing, may be enacted by local governments to achieve a variety of public purposes, specific objectives, and priorities of the community. These public policy decisions critically affect local housing goals and should not be made by Congress.

Furthermore, Federal regulation of condominium conversions is unwarranted and ill-advised where State and local governments are responding to the need for conversion legislation. To date, an estimated 100 to 200 State and local governments have specifically responded to the recent acceleration of conversion activity in their communities with conversion legislation.

According to a survey by the National Multi-Housing Council on the status of current laws and legislative activities affecting condominium and cooperative housing, as of January 31, 1981, 25 States have enacted laws to regulate condominium conversions, not including regulations in the District of Columbia. Several of those States have passed, or have pending for consideration in the State legislatures, the comprehensive Uniform Condominium Act.

Where States have not adopted condominium statutes at the State level, often their larger metropolitan areas have adopted legislation at the local level. I am attaching a list of those States, and local jurisdictions, which have passed or are considering legislation concerning condominium and cooperative laws as completed by the Council.

Clearly, States and local jurisdictions are actively examining the need for condominium legislation, and are fashioning their legislative responses to meet special community housing needs and goals.

When the Senate passed title V last year, we unfortunately acted without the benefit of an extensive study by the Department of Housing and Urban Development documenting comprehensive information on condominium and cooperative conversions. I would briefly like to point out some of the findings of that study which strongly suggest that legislation regulating condominium conversions is unjustified. For example:

The HUD study found that condominium conversions have not taken place on a large scale, nationwide, and that they have not had a great impact on the rental market. Far from being a significant factor in the national rental housing shortage, the study found that at the end of 1979, only 1.3 percent of the Nation's occupied rental housing stock had been converted.

The HUD study laid to rest the myth that there is a significant displacement problem with former tenants in condominium conversions. HUD found that the amount of displacement in all households was equal to 10 percent of those who resided in converted buildings prior to conversion. HUD also found that 90 percent of all former residents indicated that they were satisfied with their new condominium housing.

Most importantly, the HUD study confirmed that condominium conversions are a local phenomena, and that State and local governments have responded to conversion-related problems. According to the study, conversion activity has been concentrated in the larger metropolitan areas, and 76 percent of all conversions have occurred in the largest 37 SMSA's. As a matter of fact, 59 percent of that activity has taken place in just 12 of those areas. This finding, which came too late for Banking Committee consideration last year, clearly portrays conversions as a local, and not a national activity, therefore, requiring local, not national, regulation. As previously noted in my remarks, many of the States and local jurisdictions have passed statutes and ordinances providing protections for tenants and buyers in converted condominiums. Regarding this local legislation, the study states that the larger jurisdictions and those with more conversions are more likely to adopt condominium conversion legislation.

Mr. President, I am happy to report that in last year's housing conference the conferees wisely chose to abandon the Senate's condominium conversion protections, in favor of a sense of the Congress resolution which was devoid of legislative effect. I am sorry to have learned that that resolution is being misused.

This resolution imposes no affirmative obligations upon the Federal financial regulatory agencies. It merely expresses the sense of the Congress discouraging federally insured lenders from financing those condominium conversions which will adversely impact on the housing opportunities of low and moderate income, elderly, and handicapped tenants. According to the Parliamentarian. a sense of the Congress resolution imposes no legislative duties nor does it embody affirmative legislation.

I believe that the history of the aborted condominium conversion legislation demonstrates that the conferees flatly and unequivocally rejected any Federal role in regulating conversion activity. The findings of the HUD study have supported the wisdom of that decision. I would hope that these actions would put to rest any call for more Federal Government regulation in an area which is so clearly a local matter.

CONDOMINIUM CONVERSION (AS OF JANUARY 31, 1981)

The following States have enacted or have pending legislation concerning condominium conversion. The municipalities listed after each State have specific laws regulating condo conversion (UCA) Uniform Condominium Act.

Arizona.

California: over 20 communities and several counties in CA have adopted some form of conversion ordinances.

Colorado: Boulder.

Connecticut: Hartford.

Delaware: Wilmington.

District of Columbia.

Florida.

Georgia: Atlanta.

Illinois: Considering UCA—Calumet, Chicago, Elkgrove Village, Evanston, and Skokie.

Indiana: No state law but ordinances in Indianapolis.

Iowa: Pending legislation.

Kentucky: Louisville—pending legislation.

Maine: introduced legislation—Maine Condominium Act.

Maryland: Montgomery County.

Massachusetts: Seven bills introduced 1981—Acton, Boston, Brookline—on appeal, Framingham, Lowell, Quincy, Salem, and Somerville—regulations under consideration.

Michigan.

Minnesota: Adopted UCA 1980—Minneapolis, Wayzata, and St. Paul.

Mississippi: Introduced legislation consistent with UCA in January 1981.

Nevada: Reno.

New Hampshire.

New Jersey: Bills pending in 1981 session in addition to an already strict state law.

New York: Bills pending in addition to state law New York City.

North Carolina: State legislature Drafting Committee is compiling recommendations to present to the next session of the N.C. General Assembly re condo conversion regulation and moratoriums.

Ohio: Lakewood, Lyndhurst—suburbs of Cleveland.

Oregon: Portland.

Pennsylvania: Adopted revised version of UCA in July 1980.

Rhode Island: Bills introduced in the 1980 session died in committee.

Tennessee.

Utah: Pending Legislation.

Vermont: UCA passed in 1980 but later killed in the Senate. Reintroduced in 1981.

Virginia.

Washington: State buyer protection. Tenant protection in: Everett, King County, Lynwood, Mercer Island, Redmond, and Seattle.

West Virginia: UCA passed in 1980.

Wisconsin: Tenant protection with additional legislation pending.

STATES WITH CONDO BUYER PROTECTION REGULATIONS:

Hawaii. Louisiana, Maine, Montana, and South Dakota.

In all, 25 states have enacted laws to regulate condominium conversions not including regulations in the District of Columbia.●

● Mr. DODD. Mr. President, I intend to oppose final passage of S. 1197, the Housing and Community Development Amendments of 1981. I do so reluctantly, because I believe this legislation contains several positive proposals and represents the best efforts of the committee working within the time constraints imposed by the May 15 reporting deadline. I want to commend the chairman of the full committee (Mr. GARN) and the chairman of the Subcommittee on Housing and Urban Affairs (Mr. LUGAR) for the accommodations extended to this Senator during consideration of this bill in committee and before the full Senate. I appreciate particularly the majority's commitment, extended during committee markup, to conduct hearings on the demonstration housing development loan program I introduced. I believe it is essential that the committee move expeditiously to address current and emerging housing policy issues in an innovative manner.

Mr. President, in committee and on the floor I have opposed specific provisions of this legislation and questioned others. Taken as a whole, this bill represents undesirable changes in the Nation's housing, community and economic development policies. It represents a failure to maintain current efforts and instead signals a retreat from our commitment to the housing needs of lower- and moderate-income families and older Americans. At a time when our housing

needs are far exceeding our ability to meet those needs, I fear that this bill will be seen as a retrenchment in our historic commitment to the principle established in the landmark 1949 Housing Act of "a decent home and suitable living environment for every American family."

The committee bill provides for only 150,000 new assisted housing unit reservations in the coming fiscal year, reduces the eligibility for assisted housing from 80 to 50 percent of median income, and increases the percentage of income which beneficiaries of assistance must contribute toward rent. In addition, an increasing proportion of assisted housing activity would be directed for income subsidies in connection with existing units, rather than for urgently needed new housing construction or the substantial rehabilitation of this Nation's substandard housing stock.

Those who argue that the committee bill reflects the budget constraints approved by the Senate majority are right, but they suffer from the same shortsightedness that produced those constraints and took almost 20 percent of the total budget cuts from housing programs. I submit that in the consideration of individual authorization and appropriations legislation we will have the opportunity to reorder priorities stated in the current budget while remaining within the already approved overall constraints on budget authority and outlays. In reordering individual program assumptions, both within this bill and the budget as a whole, we have the opportunity to state a sense of priorities which respond adequately to basic human needs and produce cost-effective, productive investments.

The housing needs of the American people will not abate or disappear because we have redefined them in this legislation. In fact, we have fallen far short of meeting the housing needs of our lower income citizens and increasing housing costs have placed moderate income, working families among those unable to afford adequate housing.

In 1973, the Nixon administration imposed a moratorium on new assisted housing activity. Not only did this action freeze all efforts to meet increasing housing needs, but it destroyed the capacity of government and the private sector to later implement new program directions. I submit that the funding levels in this bill move us dangerously close to another moratorium that would cripple all efforts to address current and future housing policy issues.

Where is the so-called safety net for lower income families without sufficient income to afford decent shelter at an affordable cost? How long will lower and moderate income working families wait for lower interest rates and promised increases in production? Will we be able to afford to produce the needed level of housing at future costs? And, most importantly, will anyone be left behind to build this housing?

Mr. President, if Connecticut received each of the 150,000 new housing units contained in this bill the current demand for housing would still not be met. According to the State Department of Housing, 173,000 households in Connecticut currently need assistance either because their current dwellings are substandard or too expensive. This need must be addressed before we can begin to focus on the 20,000 units the same department estimates will be needed annually to meet the demands of the immediate future.

By rejecting this bill, we can go back to committee and in a more deliberate and thoughtful manner consider how we can proceed with this task of demonstrating progress in response to these conditions. We can send a signal that it is possible to live within the overall budget requirements and still exhibit compassion and a true sense of priorities in support of basic human needs. If current programs are flawed, let us get about the business of establishing a more sound base for the future. We cannot afford this bill or any other like it that sacrifices the future for limited short-term savings and ignores the basic needs of the American people.●

● Mr. MOYNIHAN. Mr. President, the Housing and Community Development Amendments of 1981 contain a number of provisions that would, if enacted, be disastrous for those with low incomes and for communities throughout the country.

The bill includes language introduced by Senators ARMSTRONG and D'AMATO to deny Federal housing assistance to communities with rent control ordinances. That rent control is desirable is a policy judgment with which many may disagree and some do; what few can question is that local ordinances are none of the Federal Government's business. Rent control and rent stabilization are the quintessence of local issues. Had this amendment been proposed and accepted by a Democratic majority, it would have been decried as a wholly improper and unacceptable instance of Federal intrusion, overregulation and paternalism. That it has Republican sponsorship does not make it more appropriate.

In fact, this is the position taken by the Reagan administration, which opposes the rent control provisions of this bill. On March 5, OMB Director David Stockman told the House Banking Committee that penalizing communities with rent control "is the kind of meddling that could only compound local meddling that caused rent controls in the first place." On March 18, HUD Secretary Samuel Pierce told the House Subcommittee on Housing and Community Development that "rent control should be determined by the localities." And on May 7, White House spokesman Larry Speakes told reporters that President Reagan feels that "the Federal Government should stay out of the business of rent control."

To support this bill would be to participate in the federalization of the issue of rent control. In what can only be termed a power grab by Washington, a fresh example of the classic pattern of intruding the purportedly superior wisdom of Federal officials into what has heretofore been left to governments closest to the people.

There are additional problems with this bill. It would raise the percentage of income paid as rent by low-income tenants in assisted housing from 25 to 30 percent. Thirty percent of income may represent a significantly lower rental than is available in the private housing market. But for those tenants now living in an assisted unit, it is a rent increase, pure and simple. A rent increase that will take $1.72 billion from low-income renters over the next 5 years. From precisely those people whose incomes are already too small to insure that all necessities can be obtained. From families which are already hard pressed to pay 25 percent of income for rent. This is no better than government-sponsored inflation for those people suffering worst from the inflation that this Government cannot seem to cure.

The bill would lift many important provisions governing the Community Development Block Grant (CDBG) program. Not all provisions, but only those designed to insure that low- and moderate-income areas benefit from the funds. The bill eliminates the requirement that funds be targeted to low- or moderate-income neighborhoods. It repeals the citizen participation requirements, which have given low-income area residents some control over development in their neighborhoods. These changes seriously hamper the program's ability to help rehabilitate low- and moderate-income areas, which was the original intent behind CDBG. It has operated effectively and should not be changed in this fashion.

This bill makes changes that are bad government and bad social policy. I cannot support it and I will not vote for it. It is one thing to curtail Government programs. It is quite a different thing to do so in a way that most hurts the least fortunate. And it would be unconscionable to support a bill that predicates receipt of Federal funds upon a certain type of local behavior. The rent control language is an attempt to punish cities that behave in a certain way and by creating the threat of punishment, causing those cities to change their behavior. If the Senate acts affirmatively on this bill, I will take my fight against the rent control language to conference and will, if necessary, resume it when the final version of the bill comes before the Senate. It can and must be defeated.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Florida (Mrs. HAWKINS), the Senator from Maryland (Mr. MATHIAS), the Senator from Georgia (Mr. MATTINGLY), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator

from South Dakota (Mr. ABDNOR) are necessarily absent.

I further announce that, if present and voting, the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator from Florida (Mrs. HAWKINS) would each vote "yea."

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I also announce that the Senator from Georgia (Mr. NUNN) is absent attending the funeral of former Congressman Carl Vinson.

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

The result was announced—yeas 65, nays 24, as follows:

[Rollcall Vote No. 138 Leg.]

YEAS—65

Andrews	Garn	Nickles
Armstrong	Glenn	Packwood
Baker	Goldwater	Percy
Baucus	Gorton	Pressler
Bentsen	Grassley	Pryor
Boren	Hatch	Quayle
Boschwitz	Hatfield	Randolph
Cannon	Hayakawa	Roth
Chafee	Heinz	Rudman
Chiles	Helms	Sasser
Cochran	Huddleston	Schmitt
Cohen	Humphrey	Simpson
D'Amato	Jackson	Specter
Danforth	Jepsen	Stafford
Denton	Johnston	Stennis
Dixon	Kassebaum	Stevens
Dole	Kasten	Symms
Domenici	Laxalt	Thurmond
Durenberger	Long	Warner
East	Lugar	Weicker
Exon	McClure	Zorinsky
Ford	Murkowski	

NAYS—24

Biden	Eagleton	Mitchell
Bradley	Hart	Moynihan
Bumpers	Heflin	Pell
Burdick	Inouye	Proxmire
Byrd, Robert C.	Leahy	Riegle
Cranston	Levin	Sarbanes
DeConcini	Matsunaga	Tsongas
Dodd	Melcher	Williams

NOT VOTING—11

Abdnor	Hollings	Metzenbaum
Byrd, Harry F., Jr.	Kennedy	Nunn
Hawkins	Mathias	Tower
	Mattingly	Wallop

So the bill (S. 1197) was passed, as follows:

S. 1197

An act to amend and extend certain Federal laws relating to housing, community, and economic development, and related programs, to provide an improved and expedited multifamily mortgage foreclosure procedure, and for other purposes

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 "Housing and Community Development Amendments of 1981".

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TITLE I—COMMUNITY AND ECONOMIC DEVELOPMENT

AUTHORIZATIONS

SEC. 101. Section 103 of the Housing and Community Development Act of 1974 is amended to read as follows:

"AUTHORIZATIONS

"SEC. 103. The Secretary is authorized to make grants to States, units of general local government, and Indian tribes to carry out activities in accordance with the provisions of this title. There are authorized to be appropriated for these purposes not to exceed $4,166,000,000 for each of the fiscal years 1982 and 1983. Sums appropriated pursuant to this section shall remain available until expended.".

STATEMENT OF ACTIVITIES AND REVIEW

SEC. 102. (a) The caption of section 104 of the Housing and Community Development Act of 1974 is amended to read as follows: "STATEMENT OF ACTIVITIES AND REVIEW".

(b) Subsections (a), (b), and (c) of section 104 of such Act are amended to read as follows:

"(a)(1) Prior to the receipt in any fiscal year of a grant under section 106 by any metropolitan city or urban county, under section 106(d) by any State, or under section 106(d)(2)(B) by any unit of general local government, the grantee shall have prepared a final statement of community development objectives and projected use of funds and shall have provided the Secretary with the certifications required in subsection (b) and, where appropriate, subsection (c). In the case of metropolitan cities and urban counties receiving grants pursuant to section 106(b) and in the case of units of general local government receiving grants pursuant to section 106(d)(2)(B), the statement of projected use of funds shall consist of proposed community development activities. In the case of States receiving grants pursuant to section 106(d), the statement of projected use of funds shall consist of the method by which the States will distribute funds to units of general local government.

"(2) In order to permit public examination and appraisal of such statements, to enhance the public accountability of grantees, and to facilitate coordination of activities with different levels of government, the grantee shall—

"(A) furnish citizens information concerning the amount of funds available for proposed community development and housing activities and the range of activities that may be undertaken,

"(B) publish a proposed statement in such manner to afford affected citizens or, as appropriate, units of general local government an opportunity to examine its content and to submit comments on the proposed statement and on the community development performance of the grantee, and

"(C) hold one or more public hearings to obtain the views of citizens on community development and housing needs.

In preparing the final statement, the grantee shall consider any such comments and views and may, if deemed appropriate by the grantee, modify the proposed statement. The final statement shall be made available to the public, and a copy shall be furnished to the Secretary together with the certifications required under subsection (b) and, where appropriate, subsection (c).

"(b) Any grant under section 106 shall be made only if the grantee certifies to the satisfaction of the Secretary that—

"(1) the grantee is in full compliance with the requirements of subsection (a)(2)(A), (B), and (C), and has made the final statement available to the public;

"(2) the grant will be conducted and ad-

ministered in conformity with Public Law 88-352 and Public Law 90-284;

"(3) the projected use of funds has been developed so as to give maximum feasible priority to activities which will benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight; the projected use of funds may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs; and

"(4) the grantee will comply with the other provisions of this title and with other applicable laws.

"(c)(1) Any grant made under section 106(b) shall be made only if the unit of general local government certifies that it is following a current housing assistance plan which has been approved by the Secretary and which—

"(A) accurately surveys the condition of the housing stock in the community and assesses the housing assistance needs of lower income persons (including elderly and handicapped persons, large families, owners of homes requiring rehabilitation assistance, and persons displaced or to be displaced) residing in or expected to reside in the community as a result of existing or projected changes in employment opportunities and population in the community and its surroundings (and those elderly persons residing in or expected to reside in the community), or as estimated in a community accepted State or regional housing opportunity plan approved by the Secretary, and identifies housing stock which is in a deteriorated condition, including the impact of conversion of rental housing to condominium or cooperative ownership on such needs;

"(B) specifies a realistic annual goal for the number of dwelling units or lower income persons to be assisted, including (i) the relative proportion of new, rehabilitated, and existing dwelling units, including existing rental and owner occupied dwelling units to be upgraded and thereby preserved, (ii) the sizes and types of housing projects and assistance best suited to the needs of lower income persons in the community, and (iii) in the case of subsidized rehabilitation, adequate provisions to assure that a preponderance of persons assisted should be of low and moderate income; and

"(C) indicates the general locations of proposed housing for lower income persons, with the objective of (i) furthering the revitalization of the community, including the restoration and rehabilitation of stable neighborhoods to the maximum extent possible, and the reclamation of the housing stock where feasible through the use of a broad range of techniques for housing restoration by local government, the private sector, or community organizations, including provision of a reasonable opportunity for tenants displaced as a result of such activities to relocate in their immediate neighborhood, (ii) promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of low-income persons, and (iii) assuring the availability of public facilities and services adequate to serve proposed housing projects.

"(2) The Secretary shall establish such dates and manner for the submission of housing assistance plans described in paragraph (1) as the Secretary may prescribe.".

(c)(1) Section 104(d) of such Act is amended to read as follows:

"(d) Each grantee shall submit to the Secretary, at a time determined by the Secretary, a performance report concerning the use of funds made available under section 106, together with an assessment by the grantee of the relationship of such use to the objectives identified in the grantee's statement under subsection (a). The Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine—

"(1) in the case of grants made under section 106(b) or section 106(d)(2)(B), whether the grantee has carried out its activities and, where applicable, its housing assistance plan in a timely manner, whether the grantee has carried out those activities and its certifications in a manner which is not plainly inconsistent with the requirements of this title, the primary objectives of this title, and other applicable laws, and whether the grantee has a continuing capacity to carry out those activities in a timely manner; and

"(2) in the case of grants to States made under section 106(d), whether the State has distributed funds to units of general local government in a timely manner and in conformance to the method of distribution described in its statement, whether the State has carried out its certifications in compliance with the requirements of this title and other applicable laws, and whether the State has made such reviews and audits of the units of general local government as may be necessary or appropriate to determine whether they have satisfied the applicable performance criteria described in paragraph (1) of this subsection.

The Secretary may make appropriate adjustments in the amount of the annual grants in accordance with the Secretary's findings under this subsection. With respect to assistance made available under section 106(d), the Secretary may provide such assistance directly to the units of general local government, or adjust, reduce, or withdraw such assistance, or take other action as appropriate in accordance with the Secretary's reviews and audits under this subsection, except that funds already expended on eligible activities under this title shall not be recaptured or deducted from future assistance to such units of general local government.".

(2) The amendment made by paragraph (1) shall take effect on October 1, 1982.

(d) Section 104 of such Act is amended by striking out subsections (e) and (f) and redesignating subsections (g), (h), (i), and (j) as subsections (e), (f), (g), and (h).

(e) Section 104(f) of such Act, as redesignated by subsection (d) of this section, is amended—

(1) by striking out "applicants" in paragraph (1) and inserting in lieu thereof "recipients of assistance under this title";

(2) by striking out "applicant" wherever it appears and inserting in lieu thereof "recipient of assistance under this title";

(3) by striking out "applications and" in the last sentence of paragraph (2); and

(4) by adding the following new paragraph at the end thereof:

"(4) In the case of grants made to States pursuant to section 106(d), the State shall perform those actions of the Secretary described in paragraph (2) and the performance of such actions shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of such paragraph.".

(f) Section 104(g) of such Act, as redesignated by subsection (d) of this section, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) Units of general local government receiving assistance under this title may receive funds, in one payment, in an amount not to exceed the total amount designated in the grant (or, in the case of a unit of general local government receiving a distribution from a State pursuant to section 106(d), not to exceed the total amount of such distribution) for use in establishing a revolving loan fund which is to be established in a private financial institution and which is to be used to finance rehabilitation activities assisted under this title. Rehabilitation activities authorized under this section shall begin within 45 days after receipt of such payment."; and

(2) by striking out the last two sentences of paragraph (2).

ELIGIBLE ACTIVITIES

SEC. 103. (a) Section 105(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out paragraph (8) and inserting in lieu thereof the following:

"(8) provision of public services, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs, if such services have not been provided by the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) during any part of the twelve-month period immediately preceding the date of submission of the statement with respect to which funds are to be made available under this title, and which are to be used for such services, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government except that not more than 10 per centum of the amount of any assistance to a unit of general local government under this title may be used for activities under this paragraph;"; and

(2) by striking out "and" at the end of paragraph (15);

(3) by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new paragraph:

"(17) provision of assistance to private, for-profit entities, when the assistance is necessary or appropriate to carry out an economic development project.".

(b) In fiscal years 1982, 1983, and 1984 the Secretary may waive the limitation on the amount of funds which may be used for public services activities under section 105(a)(8) of the Housing and Community Development Act of 1974, as amended by this Act, in the case of a unit of general local government which, during fiscal year 1981, allocated more than 10 per centum of funds received under title I of the Housing and Community Development Act of 1974 for such activities.

ALLOCATION AND DISTRIBUTION OF FUNDS

SEC. 104. (a) Section 106(a) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(a) Of the amount approved in an appropriation Act under section 103 for grants in any year (excluding the amounts provided for use in accordance with section 107 and section 119), 70 per centum shall be allocated by the Secretary to metropolitan cities and urban counties. Except as otherwise specifically authorized, each metropolitan city and urban county shall be entitled to an annual grant from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) or (2) of subsection (b).".

(b) Section 106 of such Act is amended by striking out subsection (c) and redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively.

(c) Section 106(c), as redesignated by subsection (b) of this section, is amended to read as follows:

"(c) Any amounts allocated to a metropolitan city or urban county pursuant to the preceding provisions of this section which are not received by the city or county for a fiscal year or which become available as a result of actions under section 104(d) or section 111

shall be reallocated in the succeeding fiscal year among the metropolitan cities and urban counties of the same State on the basis of a formula under which the amount reallocated to each such city or county bears the same ratio to the total amount reallocated to the metropolitan cities and urban counties within that State as the ratio which the amount allocated to that city or county pursuant to the preceding provisions of this section bears to the total amount allocated to the metropolitan cities and urban counties within that State.".

(d) Section 106(d)(1) of such Act, as redesignated by subsection (b) of this section, is amended—

(1) by striking out "section 103(a)" and all that follows through "nonmetropolitan areas of each State" in the first sentence and inserting in lieu thereof the following: "section 103 for grants in any year (excluding the amounts provided for use in accordance with section 107 and section 119), 30 per centum shall be allocated among the States for use in nonentitlement areas. The allocation for each State shall be"; and

(2) by striking out "nonmetropolitan" wherever it appears and inserting in lieu thereof "nonentitlement".

(e) Section 106(d) of such Act, as redesignated by subsection (b) of this section, is amended by striking out paragraphs (2) and (3) inserting in lieu thereof the following:

"(2)(A) Amounts allocated under paragraph (1) shall be distributed to units of general local government located in nonentitlement areas of the State to carry out activities in accordance with the provisions of this title—

"(i) by the State, consistent with the statement submitted under section 104(a); or

"(ii) by the Secretary, in any case described in subparagraph (B), for use by units of general local government in accordance with paragraph (3)(B).

"(B) The Secretary shall distribute amounts allocated under paragraph (1) where—

"(i) the State has elected, in such manner and before such time as the Secretary may prescribe, not to distribute such amounts;

"(ii) the State has failed to submit the certifications described in subparagraph (C); or

"(iii) such action is necessary as a result of findings and actions taken pursuant to section 104(d).

"(C) To receive and distribute amounts allocated under paragraph (1), the Governor must certify that the State—

"(i) engages or will engage in planning for community development activities;

"(ii) provides or will provide technical assistance to units of general local government in connection with community development programs;

"(iii) will provide, out of State resources, funds for community development activities in an amount which is at least 10 per centum of the amounts allocated for use in the State pursuant to paragraph (1); and

"(iv) has consulted with local elected officials from among units of general local government located in nonentitlement areas of that State in determining the method of distribution of funds required by subparagraph (A).

"(3)(A) If the State receives and distributes such amounts, it shall be responsible for the administration of funds so distributed. Such amounts may not be used for administrative expenses incurred by the State in carrying out its responsibilities under this title.

"(B) If the Secretary distributes such amounts, the distribution shall be made in accordance with determinations of the Secretary pursuant to statements submitted and the other requirements of section 104 (other than subsection (c)) and in accordance with regulations and procedures prescribed by the Secretary.

"(C) Any amounts allocated for use in a State for a fiscal year which are not received by that State or the units of local government of that State or which become available as a result of actions taken under section 104(d) or 111 shall be added to amounts available for use in that State in the succeeding fiscal year. Any amounts which are or become available in any case described in paragraph (2)B)(i) shall be available for use within the State to which the amounts were allocated.

"(4) In computing amounts under paragraph (1), Indian tribes shall be excluded.".

(f) Section 106(f), as redesignated by subsection (b) of this section, is amended by striking out "(1)" and all that follows through "106(e)" and inserting in lieu thereof "all basic grant entitlement amounts".

(g) Section 102(a)(4) of such Act is amended by inserting before the period at the end thereof the following: ", or until September 30, 1982, whichever is later".

DISCRETIONARY FUND

SEC. 105. Subsections (a), (b), and (c) of section 107 of the Housing and Community Development Act of 1974 are amended to read as follows:

"(a) Of the total amount approved in appropriation Acts under section 103 for each of the fiscal years 1982 and 1983, not more than $60,000,000 for each of the fiscal years 1982 and 1983 may be set aside in a special discretionary fund for grants under subsection (b). Grants under this section are in addition to any other grants which may be made under this title to the same entities for the same purposes.

"(b) From amounts set aside under subsection (a), the Secretary is authorized to make grants—

"(1) in behalf of new communities assisted under title VII of the Housing and Urban Development Act of 1970 or title IV of the Housing and Urban Development Act of 1968 or in behalf of new community projects assisted under title X of the National Housing Act which meet the eligibility standards set forth in title VII of the Housing and Urban Development Act of 1970 and which were the subject of an application or preapplication under such title prior to January 14, 1975;

"(2) in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

"(3) to Indian tribes; and

"(4) to States, units of general local government, Indian tribes, or areawide planning organizations for the purpose of providing technical assistance in planning, developing, and administering assistance under this title, and to States and units of general local government for implementing special projects otherwise authorized under this title. The Secretary may also provide, directly or through contracts, technical assistance under this paragraph to such governmental units, or to a group designated by such a governmental unit for the purpose of assisting that governmental unit to carry out assistance under this title.

"(c) Amounts set aside for use under subsection (b) in any fiscal year but not used in that year shall remain available for use in subsequent fiscal years in accordance with the provisions of that subsection."

NONDISCRIMINATION

SEC. 106. Section 109(a) of the Housing and Community Development Act of 1974 is amended by adding the following new sentence at the end thereof: "Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 shall also apply to any such program or activity.".

TRANSITIONAL PROVISIONS

SEC. 107. (a) Any amounts appropriated for any fiscal year before fiscal year 1982 in a Department of Housing and Urban Development-Independent Agencies Appropriation Act or a Supplemental Appropriation Act under the head "Community Development Grants" which are or become available for obligation shall remain available as provided by law, and shall be used in accordance with the following:

(1) funds authorized for use under section 106(a) of the Housing and Community Development Act of 1974 before the effective date of this title shall be available for use as provided by section 106(c) of such Act;

(2) funds authorized for use under section 107 of such Act before the effective date of this title shall be available for use as provided by section 107(c) of such Act; and

(3) funds authorized for use under section 106(c) or (e) of such Act before the effective date of this title shall be available for use as provided by section 106(d)(3)(A) of such Act.

(b) Any grant or loan which, prior to the effective date of any provision of this title, was obligated and governed by any authority stricken by any provision of this title shall continue to be governed by the provisions of such authority as they existed immediately before such effective date.

URBAN DEVELOPMENT ACTION GRANTS

SEC. 108. (a) Section 119 of the Housing ing and Community Development Act of 1974 is amended to read as follows:

"URBAN DEVELOPMENT ACTION GRANTS

"SEC. 119. (a) The Secretary is authorized to make urban development action grants to cities and urban counties which are experiencing severe economic distress to help stimulate economic development activity needed to aid in economic recovery. Of the total amount approved in appropriation Acts under section 103 for each of the fiscal years 1982 and 1983, not more than $500,000,000 shall be available for each of the fiscal years 1982 and 1983 for grants under this section.

"(b)(1) Urban development action grants shall be made only to cities and urban counties which have, in the determination of the Secretary, demonstrated results in providing housing for low- and moderate-income persons and in providing equal opportunity in housing and employment for low- moderate-income persons and members of minority groups. The Secretary shall issue regulations establishing criteria in accordance with the preceding sentence and setting forth minimum standards for determining the level of economic distress of cities and urban counties for eligibility for such grants. These standards shall take into account factors such as the age of housing; the extent of poverty; the extent of population lag; growth of per capita income; and, where data are available, the extent of unemployment and job lag.

"(2) A city or urban county which fails to meet the minimum standards established pursuant to paragraph (1) shall be eligible for assistance under this section if it meets the requirements of the first sentence of such paragraph and—

"(A) in the case of a city with a population of fifty thousand persons or more or an urban county, contains an area (i) composed of one or more contiguous census tracts, enumeration districts, or block groups, as defined by the United States Bureau of the Census, having at least a population of ten thousand persons or 10 per centum of the population of the city or urban county; (ii) in which at least 70 per centum of the residents have incomes below 80 per centum of

the median income of the city or urban county; and (iii) in which at least 30 percentum of the residents have incomes below the national poverty level; or

"(B) in the case of a city with a population of less than fifty thousand persons, contains an area (i) composed of one or more contiguous census tracts, enumeration districts, or block groups or other areas defined by the United States Bureau of the Census or for which data certified by the United States Bureau of the Census are available having at least a population of two thousand population of the city, whichever is greater; five hundred persons or 10 per centum of the (ii) in which at least 70 per centum of the residents have incomes below 80 per centum of the median income of the city; and (iii) in which at least 30 per centum of the residents have incomes below the national poverty level.

The Secretary shall use up to, but not more than, 20 per centum of the funds appropriated for use in any fiscal year under this section for the purpose of making grants to cities and urban counties eligible under this paragraph.

"(c) Applications for assistance under this section shall—

"(1) in the case of an application for a grant under subsection (b)(2), include documentation of grant eligibility in accordance with the standards described in that subsection;

"(2) set forth the activities for which assistance is sought, including (A) an estimate of the costs and general location of the activities; (B) a summary of the public and private resources which are expected to be made available in connection with the activities, including how the activities will take advantage of unique opportunities to attract private investment; and (C) an analysis of the economic benefits which the activities are expected to produce;

"(3) contain a certification satisfactory to the Secretary that the applicant, prior to submisison of its application, (A) has held public hearings to obtain the views of citizens, particularly residents of the area in which the proposed activities are to be carried out, and (B) has analyzed the impact of these proposed activities on the residents, particularly those of low and moderate income, of the residential neighborhood, and on the neighborhood in which they are to be carried out; and

"(4) contains a certification satisfactory to the Secretary that the applicant, prior to submission of its application, (A) has identified all properties, if any, which are included on the National Register of Historic Places and which, as determined by the applicant, will be affected by the project for which the application is made; (B) has identified all other properties, if any, which will be affected by such project and which, as determined by the applicant, may meet the criteria established by the Secretary of the Interior for inclusion on such Register, together with documentation relating to the inclusion of such properties on the Register; (C) has determined the effect, as determined by the applicant, of the project on the properties identified pursuant to clauses (A) and (B); and (D) will comply with the requirements of section 121.

"(d)(1) Except in the case of a city or urban county eligible under subsection (b)(2), the Secretary shall establish selection criteria for grants under this section which must include (A) as the primary criterion, the comparative degree of economic distress among applicants, as measured (in the case of a metropolitan city or urban county) by the differences in the extent of growth lag, the extent of poverty, and the adjusted age of housing in the metropolitan city or urban county; (B) other factors determined to be relevant by the Secretary in assessing the comparative degree of economic deterioration in cities and urban counties; and (C) at least the following other criteria; demonstrated performance of the city or urban county in housing and community development programs; to the extent to which the grant will stimulate economic recovery by leveraging private investment; the number of permanent jobs to be created and their relation to the amount of grant funds requested; the proportion of permanent jobs accessible to lower income persons and minorities, including persons who are unemployed; the impact of the proposed activities on the fiscal base of the city or urban county and its relation to the amount of grant funds requested; the extent to which State or local government funding or special economic incentives have been committed; and the feasibility of accomplishing the proposed activities in a timely fashion within the grant amount available.

"(2) For the purpose of making grants with respect to areas described in subsection (b)(2), the Secretary shall establish selection criteria, which must include (A) factors determined to be relevant by the Secretary in assessing the comparative degree of economic deterioration among eligible areas, (B) such other criteria as the Secretary may determine, including at a minimum the criteria listed in paragraph (1)(C) of this subsection.

"(e) The Secretary may not approve any grant to a city or urban county eligible under subsection (b)(2) unless—

"(1) the grant will be used in connection with a project located in an area described in subsection (b)(2), except that the Secretary may waive this requirement where the Secretary determines (A) that there is no suitable site for the project within that area, (B) the project will be located directly adjacent to that area, and (C) the project will contribute substantially to the economic development of that area;

"(2) the city or urban county has demonstrated to the satisfaction of the Secretary that basic services supplied by the city or urban county to the area described in subsection (b)(2) are at least equivalent, as measured by per capital expenditures, to those supplied to other areas within the city or urban county which are similar in population size and physical characteristics and which have median incomes above the median income for the city or urban county;

"(3) the grant will be used in connection with a project which will directly benefit the low- and moderate-income families and individuals residing in the area described in subsection (b)(2); and

"(4) the city or urban county makes available, from its own funds or from funds received from the State or under any Federal program which permits the use of financial assistance to meet the non-Federal share requirements of Federal grant-in-aid programs, an amount equal to 20 per centum of the grant to be available under this section to be used in carrying out the activities described in the application.

"(f) Activities assisted under this section may include such activities, in addition to those authorized under section 105(a), as the Secretary determines to be consistent with the purposes of this section.

"(g) The Secretary shall, at least on an annual basis, make reviews and audits of recipients of grants under this section as necessary to determine the progress made in carrying out activities substantially in accordance with approved plans and timetables. The Secretary may adjust, reduce, or withdraw grant funds, or take other action as appropriate in accordance with the findings of these reviews and audits, except that funds already expended on eligible activities under this title shall not be recaptured or deducted from future grants made to the recipient.

"(h) No assistance may be provided under this section for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that the relocation does not significantly and adversely affect the unemployment or economic base of the area from which the industrial or commercial plan or facility is to be relocated.

"(i) Not less than 25 per centum of the funds made available for grants under this section shall be used for cities with populations of less than fifty thousand persons which are not central cities of a metropolitan statistical area.

"(j) A grant may be made under this section only where the Secretary determines that there is a strong probability that (1) the non-Federal investment in the project would not be made without the grant, and (2) the grant would not substitute for non-Federal funds which are otherwise available to the project.

"(k) In making grants under this section, the Secretary shall take such steps as the Secretary deems appropriate to assure that the amount of the grant provided is the least necessary to make the project feasible.

"(l) For purposes of this section, the Secretary may reduce or waive the requirement in section 102(a)(5)(B)(ii) that a town or township be closely settled.

"(m) In the case of any application which identifies any property in accordance with subsection (c)(4)(B), the Secretary may not commit funds with respect to an approved application unless the applicant has certified to the Secretary that the appropriate State historic preservation officer and the Secretary of the Interior have been provided an opportunity to take action in accordance with the provisons of section 121(b).

"(n)(1) For the purposes of this section, the term 'city' includes Guam, the Virgin Islands, and Indian tribes.

"(2) The Secretary may not approve a grant to an Indian tribe unless the tribe (A) is located on a reservation or in an Alaskan Native Village, and (B) is an eligible recipient under the State and Local Fiscal Assistance Act of 1972.

"(o) In the event that no amounts are set aside under, or precluded from being appropriated for this section for fiscal years after fiscal year 1983, any amount which is or becomes available for use under this section after fiscal year 1983 shall be added to amounts appropriated under section 103.".

(b) Section 121 of such Act is amended by striking out "subsection (c)(7)(B)" in subsection (b) and inserting in lieu thereof "subsection (c)(4)(B)".

(c) The amendments made by subsections (a) and (b) shall become effective on the effective date of regulations implementing such subsections. As soon as practicable, but not later than January 1, 1982, the Secretary shall issue such final rules and regulations as the Secretary determines are necessary to carry out such subsections.

REHABILITATION LOANS

SEC. 109. (a) Section 312 of the Housing Act of 1954 is amended by adding at the end thereof the following:

"(l) On or after October 1, 1981, loans may be made under this section only in connection with urban homesteading programs or multifamily properties.".

(b) Subsection (a)(1)(D) of such section is amended by striking out "approved".

(c) The first sentence of subsection (d) of such section is amended—

(1) by inserting "and" after "1979,"; and

(2) by striking out all after "1980" and inserting in lieu thereof a period.

(d) The last sentence of subsection (d) of such section is repealed.

(e) Subsection (h) of such section is amended by striking out "1982" each place it appears and inserting in lieu thereof "1983".

(f) Subsection (j)(1) of such section is amended by striking out the second sentence.

URBAN HOMESTEADING

SEC. 110. The first sentence of section 810 (h) of the Housing and Community Development Act of 1974 is amended by striking out "and not to exceed $26,000,000 for the fiscal year 1979" and inserting in lieu thereof "not to exceed $26,000,000 for the fiscal year 1979, and not to exceed $13,467,000 for the fiscal year 1983".

REPEALERS

SEC. 111. (a) Title VII of the Housing and Community Development Amendments of 1978 is hereby repealed.

(b) Section 701 of the Housing Act of 1954 is hereby repealed.

TECHNICAL AMENDMENTS

SEC. 112. (a) Section 102(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out paragraphs (18) and (19);

(2) by inserting immediately after paragraph (6) the following:

"(7) The term 'nonentitlement area' means an area which is not a metropolitan city or part of an urban county."; and

(3) by redesignating the remaining paragraphs accordingly.

(b) Section 102(c) of such Act is amended by striking out "a Community Development Program in whole or in part" and inserting in lieu thereof "activities assisted under this title".

(c) Section 102(d) of such Act is amended by striking out "103(a)(1)" and inserting in lieu thereof "103".

(d) The caption of section 105 of such Act is amended to read as follows: "ELIGIBLE ACTIVITIES".

(e) Section 105(a) of such Act is amended—

(1) by striking out the first sentence and the words "These activities" in the second sentence and inserting in lieu thereof "Activities assisted under this title";

(2) by striking out "program" in paragraph (6);

(3) by striking out "the Community Development Program" in paragraph (9) and inserting in lieu thereof "activities assisted under this title";

(4) by striking out "to the community development program" in paragraph (11);

(5) by striking out "(as specifically" and all that follows through "104(a)(1)" in paragraph (14) and inserting in lieu thereof "which are carried out by public or private nonprofit entities"; and

(6) by striking out "(as specifically described in the application submitted pursuant to section 104)" in paragraph (15).

(f) Section 105(b) of such Act is amended by striking out "a grant" and inserting in lieu thereof "assistance".

(g) The second sentence of section 106(b)(4) of such Act is amended by striking out "for a grant under subsection (c) or (e)" and inserting in lieu thereof the following: "to receive assistance under subsection (d)".

(h) Section 108(d)(2) of such Act is amended by striking out "approved or".

(i) The first sentence of section 110 of such Act is amended by striking out "grants" and inserting in lieu thereof "assistance".

(j) The first sentence of section 112(a) of such Act is amended by striking out "103(a)" and inserting in lieu thereof "103".

(k) Section 113(a)(2) of such Act is amended by striking out "as approved by the Secretary".

(l) Section 116(b) of such Act is amended to read as follows:

"(b) In the case of funds available for any fiscal year, the Secretary shall not consider any statement under section 104(a), unless such statement is submitted on or prior to such date (in that fiscal year) as the Secretary shall establish as the final date for submission of statements in that year.".

REPORT ON BLOCK GRANT PROGRAM

SEC. 113. Not later than one hundred and eighty days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall report to the Congress on administrative and legislative steps that can be taken to—

(1) require all grantees to concentrate their block grant funds in distressed geographic areas small enough so that visible improvements can be achieved in a reasonable time period and to ensure that claimed benefits to low- and moderate-income persons are, in actuality, occurring;

(2) reduce the broad list of activities currently eligible so that funds can be focused on those activities which meet the cities' most urgent revitalization needs;

(3) develop overall income eligibility requirements for recipients of block grant supported rehabilitation; and

(4) limit eligible rehabilitation work to that which is essential to restore the housing unit to a decent, safe, and sanitary or energy efficient condition, specifically prohibiting nonessential and luxury items, so that more homes needing basic repairs can be rehabilitated.

TITLE II—HOUSING ASSISTANCE PROGRAMS

HOUSING AUTHORIZATIONS

SEC. 201. (a) The first sentence of section 5(c)(1) of the United States Housing Act of 1937 is amended by inserting immediately after "1980" the following: ", by $891,500,000 on October 1, 1981, and by $899,800,000 on October 1, 1982".

(b) The second sentence of section 5(c)(1) of such Act is amended by striking out "Acts;" and all that follows through the period and inserting in lieu thereof the following: "Acts. In addition, the aggregate amount which may be obligated over the duration of the contracts may not exceed $31,200,000,000 with respect to the additional authority provided on October 1, 1980, $17,815,100,000 with respect to the additional authority provided on October 1, 1981, and $17,810,600,000 with respect to the additional authority provided on October 1, 1982.".

(c) Section 5(c) of such Act is amended by—

(1) redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(2) inserting immediately after paragraph (2) the following:

"(3)(A) Of the additional authority approved in appropriation Acts and made available on October 1, 1981, and October 1, 1982, the Secretary shall make available at least $75,000,000 each fiscal year for assistance to projects under section 14.

"(B) Of the balance of the additional authority referred to in the preceding subparagraph which remains for each fiscal year after deducting the amount to be provided for assistance to projects under section 14, the Secretary shall allocate funds for use in different areas and communities in accordance with section 213(d) of the Housing and Community Development Act of 1974, except that on a national basis the Secretary may not enter into contracts aggregating—

"(i) more than 45 per centum of such balance for existing units assisted under this Act; and

"(ii) more than 55 per centum of such balance for newly constructed and substantially rehabilitated units assisted under this Act.

"(C) Notwithstanding subparagraph (B), after making the allocations referred to in such subparagraph, the Secretary shall accomodate the desires of States and units of local government regarding the mix between newly constructed or substantially rehabilitated and existing or moderately rehabilitated housing if the contract and budget authority allocated is sufficient to provide assistance with respect to such mix. Any contract or budget authority which remains after assistance is set aside for such mix shall be reallocated in accordance with section 213(d) of the Housing and Community Development Act of 1974. In any case where a State or unit of local government determines that funds allocated under this paragraph would be more effectively used for the modernization of existing public housing, the Secretary may approve the use of all or a part of such funds in accordance with the provisions of section 14.

"(D) The Secretary may not make reservations from the total amount of budget authority provided to carry out this Act in any fiscal year in a manner which would cause the amount reserved to exceed 30 per centum of the total amount for the last quarter of any fiscal year or 15 per centum of the total amount for any month of the last quarter of any fiscal year.".

(d) Section 9(c) of such Act is amended by—

(1) striking out "and" immediately after "on or after October 1, 1979,";

(2) striking out "$826,000,000" and inserting in lieu thereof "$970,800,000"; and

(3) inserting immediately before the period at the end thereof the following: ", not to exceed $1,204,600,000 on or after October 1, 1981, and not to exceed $1,350,400,000 on or after October 1, 1982".

(e) Section 213(d) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof a new paragraph to read as follows:

"(4) With respect to fiscal years beginning after September 30, 1981, the Secretary of Housing and Urban Development is authorized to retain a portion of the contract authority available during any fiscal year under the authorities cited in paragraph (1) of subsection (a) of this section, not to exceed 10 per centum of the available contract authority on an aggregate basis. Such contract authority shall be available for subsequent allocation to specific areas and communities, and may be used for:

"(A) unforseeable housing needs, especially those brought on by natural disasters or special relocation requirements;

"(B) support for the needs of the handicapped or for minority enterprise;

"(C) applications for assistance with respect to housing in new communities;

"(D) providing for assisted housing as a result of the settlement of litigation;

"(E) small research and demonstration projects;

"(F) lower-income housing needs described in housing assistance plans, including activities carried out under areawide housing opportunity plans;

"(G) innovative housing programs or alternative methods for meeting lower-income housing needs approved by the Secretary."

(f)(1) The first sentence of section 201(h) of the Housing and Community Development Ameandments of 1978 is amended—

(A) by striking out "and" after "the fiscal year 1980,";

(B) by inserting before the period at the end thereof the following: ", not to exceed $50,176,000 for the fiscal year 1982, and $50,176,000 for fiscal year 1983"; and

(C) by striking out the comma immediately following "Act" and inserting in lieu thereof a closed parenthesis.

(2) The third sentence of section 236(f)(3) of the National Housing Act, as redesignated by section 202(f)(7) of this title, is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1983".

(g) Section 305(c) of the National Housing Act is amended—

(1) by striking out "and" immediately after "October 1, 1978,"; and

(2) by inserting before the period at the end thereof the following: ", and by $2,300,000,000 on October 1, 1981, except that not more than $942,800,000 of such amount shall be available for the purchase of or commitments to purchase mortgages secured by projects which do not contain units assisted under section 8 of the United States Housing Act of 1937".

(h) Section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended by striking out "and to $5,752,500,000 on October 1, 1981" and inserting in lieu thereof "to $5,752,500,000 on October 1, 1981, and to $6,102,500,000 on October 1, 1982".

TENANT RENTAL PAYMENTS

SEC. 202. (a) Section 3 of the United States Housing Act of 1937 is amended to read as follows:

"RENTAL PAYMENTS; DEFINITIONS

"SEC. 3. (a) Dwelling units assisted under this Act shall be rented only to families who are lower income families at the time of their initial occupancy of such units. A family shall pay as rent for a dwelling unit assisted under this Act the highest of the following amounts, rounded to the nearest dollar:

"(1) 30 per centum of the family's monthly adjusted income;

"(2) 10 per centum of the family's monthly income (15 per centum for the purpose of section 8); or

"(3) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

"(b) When used in this Act:

"(1) The term 'lower income housing' means decent, safe, and sanitary dwellings assisted under this Act. The term 'public housing' means lower income housing, and all necessary appurtenances thereto, assisted under this Act other than under section 8. When used in reference to public housing, the term 'lower income housing project' or 'project' means (A) housing developed, acquired, or assisted by a public housing agency under this Act, and (B) the improvement of any such housing.

"(2) The term 'lower income families' means those families whose incomes do not exceed 50 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors.

"(3) The term 'families' includes families consisting of a single person in the case of (A) a person who is at least sixty-two years of age or is under a disability as defined in section 223 of the Social Security Act or in section 102 of the Developmental Disabilities Services and Facilities Construction Amendments of 1970, or is handicapped, (B) a displaced person, (C) the remaining member of a tenant family, and (D) other single persons in circumstances described in regulations of the Secretary. In no event shall more than 15 per centum of the units under the jurisdiction of any public housing agency be occupied by single persons under clause (D). In determining priority for admission to housing under this Act, the Secretary shall give preference to those single persons who are elderly, handicapped, or displaced before those eligible under clause (D). The term 'elderly families' means families whose heads (or their spouses), or whose sole members, are persons described in clause (A). A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which is expected to be of long-continued and indefinite duration, substantially impedes such person's ability to live independently, and is of such a nature that such ability could be improved by more suitable housing conditions. The term 'displaced person' means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. Notwithstanding the preceding provisions of this subsection, the term 'elderly families' includes two or more elderly, disabled, or handicapped individuals living together, or one or more such individuals living with one or more persons determined under regulations of the Secretary to be essential to their care or well being.

"(4) The term 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary. Such term includes the amount of income which a member of the household would have received with respect to any resource (or interest therein) owned by such member within the preceding 24 months if such member gave away or sold such resource or interest at less than the fair market value of such resource or interest for the purpose of establishing eligibility for assistance under this section, as determined pursuant to regulations of the Secretary. Household income shall be determined on the basis of actual income received over a representative prior period, with appropriate provision for sudden loss of income.

"(5) The term 'adjusted income' means the income which remains after excluding such amounts or types of income as the Secretary prescribe. In determining amounts to be excluded from income, the Secretary may, in the Secretary's discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate.

"(6) The term 'public housing agency' means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of lower income housing.

"(7) The term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and Indian tribes, bands, groups, and Nations, including Alaska Indians, Aleuts, and Eskimos, of the United States.

"(8) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(c) When used in reference to public housing:

"(1) The term 'development' means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a lower income housing project. The term 'development cost' comprises the costs incurred by a public housing agency in such undertakings and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of such project. Construction activity in connection with a lower income housing project may be confined to the reconstruction, remodeling, or repair of existing buildings.

"(2) The term 'operation' means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or financing in connection with a lower income housing project. The term also means the financing of tenant programs and services for families residing in lower income housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term 'tenant programs and services' includes the development and maintenance of tenant organizations which participate in the management of lower income housing projects; the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies in the community when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services.

"(3) The term 'acquisition cost' means the amount prudently required to be expanded by a public housing agency in acquiring property for a lower income housing project.".

(b) Sections 4, 5, 9, and 11 of such Act are amended by striking out "LOW INCOME" where it appears in the caption accompanying each such section and by inserting in lieu thereof "LOWER INCOME".

(c) Sections 2, 4, 5, 6, 9, 11, 12, 13, and 14 of such Act are amended by striking out "low-income" wherever it appears and inserting in lieu thereof "lower income".

(d) Section 6(c)(2) of such Act is amended by striking out the phrase "at intervals of two years (or at shorter intervals where the Secretary deems it desirable)" and inserting in lieu thereof "no less frequently than annually".

(e) Section 8 of such Act is amended—

(1) by striking out paragraph (3) of subsection (c) and inserting in lieu thereof the following:

"(3) The amount of the monthly assistance payment with respect to any dwelling unit shall be the difference between the maximum monthly rent which the contract provides that the owner is to receive for the unit and the rent the family is required to pay under section 3(a) of this Act. Reviews of family income shall be made no less frequently than annually.";

(2) by striking out paragraph (7) of subsection (c) and redesignating paragraph (8) of such subsection as paragraph (7);

(3) by striking out paragraphs (1), (2), and (3) of subsection (f) and redesignating paragraphs (4), (5), and (6) of such subsec-

tion as paragraphs (1), (2), and (3), respectively;

(4) by striking out "The provisions of section 3(1), 5(e), and 6" in subsection (h) and inserting in lieu thereof "Sections 5(e) and 6";

(5) by striking out the comma after the word "Act" in subsection (h); and

(6) by striking out "25 per centum of one-twelfth of the annual income of such family" in paragraph (3) of subsection (j) and inserting in lieu thereof "the rent the family is required to pay under section 3(a) of this Act".

(f) Section 236 of the National Housing Act is amended—

(1) by striking out "two years" in subsection (e) and inserting in lieu thereof "one year";

(2) by striking out "25 per centum of the tenant's income" in the second sentence of subsection (f) and inserting in lieu thereof "30 per centum of the tenant's adjusted income";

(3) by striking out clause (ii) in the third sentence of subsection (f) and inserting in lieu thereof the following:

"(ii) to permit the charging of a rental for such dwelling units at such an amount less than 30 per centum of a tenant's adjusted income as the Secretary determines represents a proportionate decrease for the utility charges to be paid by such tenant, but in no case shall such rental be lower than 25 per centum of a tenant's adjusted income.";

(4) by striking out "25 per centum of their income" in paragraph (2) of subsection (f) and inserting in lieu thereof "30 per centum of their adjusted income";

(5) by striking out "25 per centum of the tenant's income" in paragraph (2) of subsection (f) and inserting in lieu thereof "the highest of the following amounts, rounded to the nearest dollar:

"(A) 30 per centum of the tenant's monthly adjusted income;

"(B) 10 per centum of the tenant's monthly income; or

"(C) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated";

(6) by striking out the third sentence in paragraph (2) of subsection (f);

(7) by striking out subparagraph (A) of subsection (f)(3) and redesignating subsection (f)(3)(B) as subsection (f)(3); and

(8) by striking out subsection (m) and inserting in lieu thereof the following:

"(m) For the purpose of this section the term 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary. Such term includes the amount of income which a member of the household would have received with respect to any resource (or interest therein) owned by such member within the preceding twenty-four months if such member gave away or sold such resource or interest at less than the fair market value of such resource or interest for the purpose of establishing eligibility for assistance under this section, as determined pursuant to regulations of the Secretary. The term 'adjusted income' means the income which remains after excluding such amounts or types of income as the Secretary may prescribe. In determining amounts to be excluded from income, the Secretary may, in the Secretary's discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate. Household income shall be determined on the basis of actual income received over a representative prior period, with appropriate provision for sudden loss of income.".

(g) Section 101 of the Housing and Urban Development Act of 1965 is amended—

(1) by striking out paragraph (2) in subsection (c) and inserting in lieu thereof the following:

"(2) 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary. Such term includes the amount of income which a member of the household would have received with respect to any resource (or interest therein) owned by such member within the preceding twenty-four months if such member gave away or sold such resource or interest at less than the fair market value of such resource or interest for the purpose of establishing eligibility for assistance under this section, as determined pursuant to regulations of the Secretary. The term 'adjusted income' means the income which remains after excluding such amounts or types of income as the Secretary may prescribe. In determining amounts to be excluded from income, the Secretary may, in the Secretary's discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate. Household income shall be determined on the basis of actual income received over a representative prior period, with appropriate provision for sudden loss of income.";

(2) by striking out the first sentence of subsection (d) and inserting in lieu thereof the following: "The amount of the annual payment with respect to any dwelling unit shall be the lesser of (1) 70 per centum of the fair market rent, or (2) the amount by which the fair market rental for such unit exceeds 30 per centum of the tenant's adjusted income."; and

(3) by striking out ", except the elderly, at intervals of two years (or at shorter intervals in cases where the Secretary may deem it desirable)" in paragraph (2) of subsection (e), and by inserting in lieu thereof "no less frequently than annually".

(h) Title II of the Housing and Community Development Amendments of 1979 is amended—

(1) by striking out subsection (c) in section 202; and

(2) by striking out subsection (c) in section 203.

(i)(1) In determining the rent to be paid by tenants who are occupying housing assisted under the authorities amended by this section on the effective date of this Act, the Secretary, notwithstanding any other provision of this section, may provide for delayed applicability, or for staged implementation, of the procedures for determining rent required by the provisions of subsections (a) through (h) of this section if the Secretary determines that immediate application of such procedures would be impracticable, would violate the terms of existing leases, or would result in extraordinary hardship for any class of tenants. The Secretary shall prohibit any increase in rents required by the amendments made by this section (other than any part of those increases attributed to increases in family income) in excess of 10 per centum for a family during any twelve-month period. Notwithstanding any other provision of this section, application of the procedures for determining rent contained in this section shall not result in a reduction in the amount of rent paid by any tenant below the amount paid by such tenant immediately preceding the effective date of this Act.

(2) Tenants of housing assisted under the provisions of law amended by this section whose occupancy begins after the effective date of this Act shall be subject to immediate rent payment determinations in accordance with the amendments contained in subsections (a) through (h), except that the Secretary may provide for delayed applicability, or for staged implementation, of these requirements for such tenants if the Secretary determines that immediate application of the requirements of this section would be impracticable, or that uniform procedures for assessing rents would significantly decrease administrative costs and burdens.

(3) The Secretary's actions and determinations and the procedures for making determinations pursuant to this subsection shall not be reviewable in any court. The provisions of subsections (a) through (h) shall be implemented and fully applicable to all affected tenants no later than five years following the date of enactment of this Act, except that the Secretary may extend the time for implementation if the Secretary determines that full implementation would result in extraordinary hardship for any class of tenants.

COST REDUCTION IN ASSISTED HOUSING

SEC. 203. (a) Section 8 of the United States Housing Act of 1937 is amended—

(1) by inserting after the first sentence of subsection (b)(2) the following: "To increase housing opportunities for very low-income families, the Secretary shall assure that newly constructed housing to be assisted under this section is modest in design and shall reduce the types and number of unnecessary amenities and features.";

(2) by adding at the end of subsection (c)(2) the following:

"(D) Notwithstanding the foregoing, the Secretary shall limit increases in contract rents for newly constructed or substantially rehabilitated projects assisted under this section to the amount of operating cost increases incurred by owners of comparable projects in the area.";

(3) in subsection (c)(4)—

(A) by striking out all after "exceeding" in the first sentence and inserting in lieu thereof "thirty days."; and

(B) by striking out "sixty-day" in the second sentence and inserting in lieu thereof "thirty-day"; and

(4) by adding at the end thereof the following:

"(m) The Secretary shall give a weighted average consideration of 33⅓ per centum for cost considerations when reviewing proposals for assistance under this section.

"(n) For the purpose of achieving the lowest cost in providing units in newly constructed projects assisted under this section, the Secretary shall give a priority in entering into contracts under this section for projects which are to be located on specific tracts of land provided by States or units of local government if the Secretary determines that the tract of land is suitable for such housing, and that affording such priority will be cost effective.

"(o) The Secretary shall not enter into any contract with respect to a newly constructed project under this section if the sizes of the units in such project exceed (1) the sizes specified in the minimum property standards by more than 10 per centum or the sizes specified by other applicable Federal standards, or (2) the sizes specified in the applicable local codes, whichever are greater.".

(b)(1) The Secretary of Housing and Urban Development may not deny or withhold Federal housing assistance with respect to any property in which some or all of the dwelling units do not contain bathroom or kitchen facilities because of the lack of such facilities.

(2) In the case of newly constructed or substantially rehabilitated projects for occupancy by elderly or handicapped persons

or families with respect to which Federal housing assistance is provided pursuant to contracts entered into on or after October 1, 1981, to the maximum extent practicable, the Secretary of Housing and Urban Development shall, on a nationwide basis, assure that not less than 25 per centum of the units are efficiency units.

(3) As used in this subsection, the term "Federal housing assistance" means assistance under any program pursuant to the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, section 202 of the Housing Act of 1959, title V of the Housing Act of 1949, or title I of the Housing and Community Development Act of 1974.

REDIRECTION OF ECONOMIC MIX POLICY

SEC. 204. (a) The Secretary of Housing and Urban Development shall rescind 24 C.F.R. 880.603(c).

(b) Section 8 of the United States Housing Act of 1937 is amended—

(1) by inserting "only where consistent with the purpose of aiding lower income families in obtaining a decent place to live" after "mixed housing" in subsection (a);

(2) by adding at the end of subsection (b)(2) the following: "Each contract entered into under this section after the date of enactment of the Housing and Community Development Amendments of 1981 shall provide that a family which is not eligible for assistance under this section at the time of its initial occupancy may rent a unit in a newly constructed or substantially rehabilitated project assisted under this section only if the number of units in the project which are occupied by families eligible for assistance under this section equals or exceeds the number of units in the project which were to be available for occupancy at initial rent-up by families eligible for assistance under this section."; and

(3) by inserting after "nonhandicapped persons" in the second sentence of subsection (c)(5) the following: "which are not subject to mortgages purchased under section 305 of the National Housing Act and not financed with the proceeds of obligations the interest on which is exempt from taxation under chapter 1 of the Internal Revenue Code of 1954".

(c) Section 6(c)(4)(A) of such Act is amended by striking out "will include families with a broad range of incomes and" and by striking out "lower income and".

MISCELLANEOUS HOUSING ASSISTANCE AMENDMENTS

SEC. 205. (a) Section 8 of the United States Housing Act of 1937 is amended—

(1) by adding at the end thereof the following:

"(p) After the date of enactment of this subsection, the Secretary may not enter into any contract for a newly constructed or substantially rehabilitated project pursuant to this section which is to be located within the jurisdiction of a State or unit of local government which applies rent controls or rent stabilization to some or all newly constructed multifamily residential projects or to units in any multifamily residential project which become vacant."; and

(2) by adding at the end of subsection (c) the following:

"(8) Each contract under this section shall provide that the owner will notify tenants at least six months prior to any rent increase which may occur after the expiration of such contract.".

(b)(1) Within one year after the date of enactment of this Act, the Secretary of Housing and Urban Development shall conduct a survey to determine the number of projects which are assisted under section 8 of the United States Housing Act of 1937 owned by developers or sponsors with five-year annual contributions contracts who plan to withdraw from the section 8 program when their contracts expire and who will increase rents in those projects to levels that the current residents of those projects will not be able to afford. The Secretary shall notify affected residents of possible rent increases where applicable.

(2) Not later than one year after the date of the enactment of this Act, the Secretary shall transmit to the Congress a report recommending methods for recapturing the cost to the Federal Government of front-end investment in those units which are removed from the section 8 program.

(c) Section 8 of the United States Housing Act of 1937 is amended by adding at the end thereof the following:

"(q) The Secretary shall assure that no Federal, State, or local official financially profits by participating in the development of housing to be assisted under this section.".

(d)(1) The Secretary of Housing and Urban Development shall permit public housing agencies to retain, out of judgments obtained by them in recovering amounts wrongfully paid as a result of fraud and abuse in the housing assistance program under section 8 of the United States Housing Act of 1937, an amount equal to the greater of (A) the legal expenses incurred in obtaining such judgments, or (B) 50 per centum of the amount actually collected on the judgments.

(2) The Secretary of Housing and Urban Development shall include in the annual report under section 8 of the Department of Housing and Urban Development Act a summary of cases brought to its attention by public housing authorities for prosecution or civil action, and shall describe the handling of such cases by such authorities and by the Department of Housing and Urban Development and the resolution of such cases in the court system.

(e) Section 8(d)(1) of the United States Housing Act of 1937 is amended by striking out clause (B) and inserting in lieu thereof:

"(B) the procedural and substantive rights of the tenant with respect to occupancy of the unit shall be determined by the terms of the lease and applicable State and local law;".

RENT SUPPLEMENTS

SEC. 206. (a) Section 101(1) of the Housing and Urban Development Act of 1965 is amended to read as follows:

"(1) Notwithstanding the provisions of subsection (a) and any other provision of law, the Secretary may utilize additional authority under section 5(c) of the United States Housing Act of 1937 made available by appropriation Acts on or after October 1, 1979, to supplement assistance authority available for that purpose under this section.".

(b) The second sentence of section 101(d) of such Act is repealed.

DISPOSAL OF HUD-OWNED PROJECTS

SEC. 207. Section 203(a) of the Housing and Community Development Amendments of 1978 is amended by adding at the end thereof the following: "To the maximum extent feasible, the Secretary shall seek to dispose of projects owned by the Secretary to tenant-owned cooperatives.".

SECTION 235 AMENDMENTS

SEC. 208. (a) Section 235(c)(2)(A) of the National Housing Act is amended by striking out "ceases for a period of 90 continuous days or more making payments required under the mortgage loan, or advance of credit secured by such a property, or".

(b) Section 235(h)(1) of such Act is amended by adding the following new sentence at the end thereof: "The Secretary shall not enter into new contracts for assistance payments under this section after September 30, 1981, except pursuant to a commitment issued on or before September 30, 1981.".

(c) Section 235(q)(14) of such Act is amended by striking out "ceases for a period of 90 continuous days or more making payments on the mortgage, loan, or advance of credit secured by the property, or".

RESTRICTION ON USE OF ASSISTED HOUSING

SEC. 209. (a) Section 214 of the Housing and Community Development Act of 1980 is amended to read as follows:

"RESTRICTION ON USE OF ASSISTED HOUSING

"SEC. 214. (a) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not make financial assistance available for the benefit of any alien unless he or she is a resident of the United States and is—

"(1) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) and 8 U.S.C. 1101(a)(20)), excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country;

"(2) an alien who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 249 of the Immigration and Nationality Act (8 U.S.C. 1259);

"(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or pursuant to the granting of asylum (which has not been terminated) under section 208 of such Act (8 U.S.C. 1158);

"(4) an alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)); or

"(5) an alien who is lawfully present in the United States as a result of the Attorney General's withholding deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)).

"(b) For purposes of this section the term 'financial assistance' means financial assistance made available pursuant to the United States Housing Act of 1937, section 235 or 236 of the National Housing Act, or section 101 of the Housing and Urban Development Act of 1965.".

(b) An alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of section 214 of the Housing and Community Development Act of 1980, to be an alien described in section 214(a)(3) of such Act.

PAYMENT FOR DEVELOPMENT MANAGERS

SEC. 210. The Secretary of Housing and Urban Development shall develop and implement a revised schedule for development managers of lower income housing projects assisted under the United States Housing Act of 1937 so that the percentage limitation applicable to fees chargeable in connection with smaller projects is increased to a minimum level which is practicable.

REVIEW OF OPERATING SUBSIDY FORMULA; FEASIBILITY STUDY

SEC. 211. (a) The Secretary of Housing and Urban Development shall review the administration of the operating subsidy program under section 9 of the United States Housing Act of 1937 and, not later than March 1, 1982, shall report to the Congress recommendations for one or more new operating subsidy formulas which contain incentives to achieve good management, full rent collection, and improved maintenance of projects developed under the United States Housing Act of 1937.

(b) The Secretary of Housing and Urban Development shall examine the feasibility of having the Department of Housing and Urban Development design and implement a computer system which can be utilized by public housing agencies to comply with the Department of Housing and Urban Development's reporting requirements, and report thereon to the Congress not later than March 1, 1982.

ENERGY EFFICIENCY EFFORTS

SEC. 212. Section 201 of the Housing and Community Development Amendments of 1978 is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following:

"(h)(1) Notwithstanding any other provision of law, in exercising any authority relating to the approval or disapproval of rentals charged tenants residing in projects which are eligible for assistance under this section, the Secretary—

"(A) shall consider whether the mortgagor could control increases in utility costs by securing more favorable utility rates, by undertaking energy conservation measures which are financially feasible and cost effective, or by taking other financially feasible and cost-effective actions to increase energy efficiency or to reduce energy consumption; and

"(B) may, in his discretion, adjust the amount of a proposed rental increase where he finds the mortgagor could exercise such control.

"(2) The Secretary may waive one or more of the requirements of this section and may provide financial assistance to an owner of a project which is eligible for assistance under this section in order to assist the owner in carrying out a plan to upgrade the project to meet cost-effective energy efficiency standards prescribed by the Secretary.".

RECOGNITION OF KANSAS DEPARTMENT OF ECONOMIC DEVELOPMENT

SEC. 213. The Secretary of Housing and Urban Development shall permit the Kansas Department of Economic Development to participate as a public housing agency for the purposes of programs carried out under the United States Housing Act of 1937 and as a State agency for the purpose of section 883.203 of title 24 of the Code of Federal Regulations as in effect June 1, 1981.

TITLE III—PROGRAM AMENDMENTS AND EXTENSIONS

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

SEC. 301. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1981" in the first sentence and inserting in lieu thereof "October 1, 1983".

(b) Section 217 of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1983".

(c) Section 221(f) of such Act is amended by striking out "September 30, 1981" in the fifth sentence and inserting in lieu thereof "September 30, 1983".

(d) Section 235(m) of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(e) Section 236(n) of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(f) Section 244(d) of such Act is amended by—

(1) striking out "September 30, 1981" in the first sentence and inserting in lieu thereof "September 30, 1983"; and

(2) striking out "October 1, 1981" in the second sentence and inserting in lieu thereof "October 1, 1983".

(g) Section 245(a) of such Act is amended by striking out "September 30, 1981" where it appears and inserting in lieu thereof "September 30, 1983".

(h) Section 809(f) of such Act is amended by striking out "September 30, 1981" in the second sentence and inserting in lieu thereof "September 30, 1983".

(i) Section 810(k) of such Act is amended by striking out "September 30, 1981" in the second sentence and inserting in lieu thereof "September 30, 1983".

(j) Section 1002(a) of such Act is amended by striking out "September 30, 1981" in the second sentence and inserting in lieu thereof "September 30, 1983".

(k) Section 1101(a) of such Act is amended by striking out "September 30, 1981" in the second sentence and inserting in lieu thereof "September 30, 1983".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

SEC. 302. Section 3(a)(1) of Public Law 90–301 is amended by striking out "October 1, 1981" and inserting in lieu thereof "October 1, 1983".

RESEARCH AUTHORIZATIONS

SEC. 303. The second sentence of section 501 of the Housing and Urban Development Act of 1970 is amended by striking out "and not to exceed $51,000,000 for the fiscal year 1981" and inserting in lieu thereof "not to exceed $51,000,000 for the fiscal year 1981, not to exceed $35,000,000 for the fiscal year 1982, and not to exceed $35,000,000 for the fiscal year 1983".

FEDERAL HOUSING ADMINISTRATION GENERAL INSURANCE FUND

SEC. 304. Section 519(f) of the National Housing Act is amended by striking out "$1,738,000,000" and inserting in lieu thereof "$1,864,637,000".

PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOANS

SEC. 305. Section 2(b) of the National Housing Act is amended to read as follows:

"(b)(1) No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it if the amount of such loan, advance of credit or purchase exceeds—

"(A) $17,500 ($20,000 where financing the installation of a solar energy system is involved) if made for the purpose of financing alterations, repairs and improvements upon or in connection with existing single-family structures or manufactured homes;

"(B) $43,750 or an average amount of $8,750 per family unit ($50,000 and $10,000, respectively, where financing the installation of a solar energy system is involved) if made for the purpose of financing the alteration, repair, improvement, or conversion of an existing structure used or to be used as an apartment house or a dwelling for two or more families;

"(C) $22,500 ($35,000 in the case of a manufactured home composed of two or more modules) if made for the purpose of financing the purchase of a manufactured home; and a suitably developed lot on which to place the home;

"(D) $35,000 ($47,500 in the case of a manufactured home composed of two or more modules) if made for the purpose of financing the purchase of a manufactured home;

"(E) such an amount as may be necessary, but not exceeding $12,500, if made for the purpose of financing the purchase, by an owner of a manufactured home which is the principal residence of that owner, of a suitably developed lot on which to place that manufactured home, and if the owner certifies that he or she will place the manufactured home on the lot acquired with such loan within six months after the date of such loan;

"(F) $60,000 or an average amount of $20,000 per family unit if made for the purpose of financing the preservation of an historic structure; and

"(G) such principal amount as the Secretary may prescribe if made for the purpose of financing fire safety equipment for a nursing home, extended health care facility, intermediate health care facility, or other comparable health care facility.

"(2) Because of prevailing higher costs, the Secretary may, by regulation, in Alaska, Guam, or Hawaii, increase any dollar amount limitation on manufactured homes or manufactured home lot loans contained in this subsection by not to exceed 40 per centum. In other areas where needed to meet higher costs of land acquisition, site development, and construction of a permanent foundation in connection with the purchase of a manufactured home or lot, the Secretary may, by regulation, increase any dollar amount limitation otherwise applicable by an additional $7,500.

"(3) No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit or purchase by it if the term to maturity of such loan, advance of credit or purchase exceeds—

"(A) fifteen years and thirty-two days if made for the purpose of financing alterations, repairs and improvements upon or in connection with an existing single-family structure or manufactured home, except that such limitation may be extended to twenty years and thirty-two days where financing the installation of a solar energy system is involved;

"(B) twenty years and thirty-two days if made for the purpose of financing the alteration, repair, improvement or conversion of an existing structure used or to be used as an apartment house or a dwelling for two or more families, except that such limitation may be increased to twenty-five years and thirty-two days where financing the installation of a solar energy system is involved;

"(C) twenty years and thirty-two days (twenty-three years and thirty-two days in the case of a manufactured home composed of two or more modules) if made for the purpose of financing the purchase of a manufactured home;

"(D) twenty years and thirty-two days (twenty-five years and thirty-two days in the case of a manufactured home composed of two or more modules) if made for the purpose of financing the purchase of a manufactured home and a suitably developed lot on which to place the home;

"(E) fifteen years and thirty-two days if made for the purpose of financing the purchase, by the owner of a manufactured home which is the principal residence of that owner, of a suitably developed lot on which to place that manufactured home;

"(F) twenty-five years and thirty-two days if made for the purpose of financing the preservation of an historic structure;

"(G) such term to maturity as the Secretary may prescribe if made for the purpose of financing the construction of a new structure for use in whole or in part for agricultural purposes; and

"(H) such term to maturity as the Secretary may prescribe if made for the purpose of financing fire safety equipment for a nursing home, extended health care facility, intermediate health care facility, or other comparable health care facility.

"(4) For the purpose of this subsection—

"(A) the term 'developed lot' includes an interest in a condominium project (including any interest in the common areas) or a share in a cooperative association; and

"(B) a loan to finance the purchase of a manufactured home or a manufactured home and lot may also finance the purchase of a garage, patio, carport, or other comparable appurtenance.

"(5) No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it unless the obligation bears such interest, has such maturity, and contains such other terms, conditions, and restrictions as the Secretary shall prescribe, in order to make credit available for the purpose of this title. Any such obligation with respect to which insurance is granted under this section shall bear interest and insurance premium charges not exceeding (A) an amount, with respect to so much of the net proceeds thereof as does not exceed $2,500, equivalent to $5.50 discount per $100 of original face amount of a one-year note payable in equal monthly installments, plus (B) an amount, with respect to any portion of the net proceeds thereof in excess of $2,500, equivalent to $4.50 discount per $100 of original face amount of such note. The amounts referred to in clauses (A) and (B) of the preceding sentence when correctly based on tables of calculations issued by the Secretary or adjusted to eliminate minor errors in computation in accordance with requirements of the Secretary, shall be deemed to comply with such sentence.

"(6)(A) Any obligation with respect to which insurance is granted under this section may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional amount or term in excess of any applicable maximum provided for in this subsection.

"(B) The owner of a manufactured home lot purchased without assistance under this section but otherwise meeting the requirements of this section may refinance such lot under this section in connection with the purchase of a manufactured home if the borrower certifies that the home and lot is or will be his or her principal residence within six months after the date of the loan.".

INCREASE IN MAXIMUM LOAN LIMIT FOR MANUFACTURED HOME PARKS; MANUFACTURED HOME CONDOMINIUMS

SEC. 306. (a) Section 207(c)(3) of the National Housing Act is amended by striking out "$8,000" and inserting in lieu thereof "$9,000".

(b) Section 234(a) of such Act is amended by inserting "or a manufactured home or manufactured home and lot" after "one-family unit".

HOMEOWNER COUNSELING

SEC. 307. Section 106(a)(1)(iii) of the Housing and Urban Development Act of 1968 is amended to read as follows:

"(iii) default and delinquency counseling and advice to homeowners with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and in meeting the responsibilities of homeownership;".

TECHNICAL AMENDMENTS

SEC. 308. (a) The last sentence of section 207(c)(3) section 213(p), the last proviso in section 220(d)(3)(B)(iii), section 221(k), the proviso in section 231(c)(2), and section 234(j) of such Act are amended—

(1) by inserting "therein" immediately after "installation" wherever it appears; and

(2) by striking out "therein" before the punctuation at the end thereof.

(b) Section 223(f) of such Act is amended—

(1) by inserting "and" immediately after the semicolon at the end of paragraph (2)(A); and

(2) by redesignating paragraph (5) as paragraph (4).

(c) For purposes of paragraphs (1) and (4) of section 308(c) of the Housing and Community Development Act of 1980, the term "mobile home" and the term "manufactured home" shall be deemed to include the term "mobile homes" and the term "manufactured homes", respectively.

(d)(1) The material preceding the proviso in clause (2) of the first sentence of section 234(c) of the National Housing Act is amended to read as follows: "(2) the project is or has been covered by a mortgage insured under any section (except section 213(a)(1) and (2)) of this Act or the project was approved for a guarantee, insurance, or a direct loan under chapter 37 of title 38, United States Code, notwithstanding any requirements in any such section that the project be constructed or rehabilitated for the purpose of providing rental housing:".

(2) Section 318 of the Housing and Community Development Act of 1980 is repealed.

FLOOD INSURANCE

SEC. 309. (a) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1983".

(b) Section 1336(a) of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1983".

(c) Section 1376(c) of such Act is amended by striking out "and" after "1980," and by inserting after "1981" the following: ", not to exceed $51,000,000 for the fiscal year 1982, and not to exceed $51,000,000 for the fiscal year 1983".

(d)(1) Section 1302(g) of such Act is repealed.

(2) Section 1370(c) of such Act is repealed.

(e) The amendments made by this section do not affect any obligations arising out of contracts entered into on or before the date of enactment of this Act.

RIOT AND CRIME INSURANCE

SEC. 310. (a) Section 1201 of the National Housing Act is amended—

(1) by striking out "C," in subsection (b)(1);

(2) by striking out "September 30, 1981" in subsection (b)(1) and inserting in lieu thereof "September 30, 1982"; and

(3) by striking out "and 1231(c) until September 30, 1984" in subsection (b)(1)(A) and inserting in lieu thereof "until September 30, 1982".

(b) Part C of title XII of such Act is repealed.

(c) The amendments made by this section do not affect any obligations arising out of contracts entered into on or before the date of enactment of this Act.

NEIGHBORHOOD REINVESTMENT CORPORATION

SEC. 311. Section 608(a) of the Housing and Community Development Amendments of 1978 is amended by striking out "and not to exceed $13,426,200 for fiscal year 1981" and inserting in lieu thereof "not to exceed $13,426,000 for fiscal year 1981, not to exceed $14,950,000 for fiscal year 1982, and not to exceed $14,950,000 for fiscal year 1983".

NATIONAL INSTITUTE OF BUILDING SCIENCES

SEC. 212. (a) Section 809(c)(4) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following: "Notwithstanding any such rules and procedures as may be adopted by the Institute, the President of the United States shall appoint, by and with the advice and consent of the Senate, two of the members of the Board of Directors selected each year for terms commencing in that year, as representative of the public interest.".

(b) Section 809(h) of such Act is amended by striking out "1982" and inserting in lieu thereof "1987".

MODEL ZONING CODE

SEC. 313. The Secretary of Housing and Urban Development is authorized and directed to develop a model manufactured housing zoning code for use by appropriate local authorities.

LOWER COST TECHNOLOGY

SEC. 314. The Secretary of Housing and Urban Development is authorized to develop and implement a demonstration program utilizing lower cost building technology for projects located on innercity vacant land.

COMPILATION OF BASIC LAWS

SEC. 315. Not later than ninety days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall publish a full and complete edition of the basic laws and authorities relating to housing and community development reflecting changes and additions occasioned by this Act. Such publication shall carry annotations reflecting periodic changes to basic laws and a description of provisions which are replaced or amended. The Secretary of Housing and Urban Development shall forward copies of such publication to the Chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman of the Committee on Banking, Finance and Urban Affairs of the House of Representatives. A revised edition of such basic laws and authorities shall be published not later than ninety days after the enactment of any subsequent housing and community development authorizing legislation.

USURY PROVISION

SEC. 316. Section 501(a)(1)(C)(vi) of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended by inserting "or residential manufactured home" after "residential real property".

NATIONAL CONSUMER COOPERATIVE BANK

SEC. 317. (a) Section 108 of the National Consumer Cooperative Bank Act is amended by adding at the end thereof the following:

"(f)(1) Effective on and after the date of enactment of the Housing and Community Development Amendments of 1981—

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

"(B) the Bank may not issue any obligations pursuant to section 107.

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

(b) Section 105(a)(5) of such Act is amended to read as follows:

"(5) in the case of a primary cooperative organization—

"(A) restricts its voting control to members or voting stockholders on a one vote per person basis, except that this requirement shall not apply to any housing cooperative existing on March 21, 1980, which did not meet such requirement on that date; and

"(B) takes positive steps to insure eco-

nomic democracy and maximum participation by members of the cooperative including the holding of annual meetings and, in the case of organizations owned by groups of cooperatives, provides positive protections to insure economic democracy;".

RESCISSION OF 1981 AUTHORITY

SEC. 318. Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not obligate or expend $5,552,000,000 of budget authority provided for fiscal year 1981.

MORTGAGE INSURANCE FOR HOSPITALS

SEC. 319. Section 242(d)(5) of the National Housing Act is amended by adding the following paragraph at the end thereof: *"Provided, however,* That the foregoing shall not limit the ability of the Secretary to approve a mortgage increase for any changes by the Secretary on any mortgage eligible for insurance under this subpart for which an application for increase had been made within two years of enactment.".

TITLE IV—MULTIFAMILY MORTGAGE FORECLOSURE

SHORT TITLE

SEC. 401. This title may be cited as the "Multifamily Mortgage Foreclosure Act of 1981".

FINDINGS AND PURPOSE

SEC. 402. (a) The Congress finds that—

(1) disparate State laws under which the Secretary of Housing and Urban Development forecloses real estate mortgages which the Secretary holds pursuant to title II of the National Housing Act or section 312 of the Housing Act of 1964 covering multiunit residential and nonresidential properties burden the programs administered by the Secretary pursuant to these authorities, and cause detriment to the residents of the affected projects and the community generally;

(2) long periods to complete the foreclosure of these mortgages under certain State laws lead to deterioration in the condition of the properties involved; necessitate substantial Federal management and holding expenditures; increase the risk of vandalism, fire loss, depreciation, damage, and waste with respect to the properties; and adversely affect the residents of the projects and the neighborhoods in which the properties are located;

(3) these conditions seriously impair the Secretary's ability to protect the Federal financial interest in the affected properties and frustrate attainment of the objectives of the underlying Federal program authorities, as well as the national housing goal of "a decent home and a suitable living environment for every American family";

(4) application of State redemption periods to these mortgages following their foreclosure would impair the salability of the properties involved and discourage their rehabilitation and improvement, thereby compounding the problems referred to in clause (3);

(5) the availability of a uniform and more expeditious procedure for the foreclosure of these mortgages by the Secretary and continuation of the practice of not applying postsale redemption periods to such mortgages will tend to ameliorate these conditions; and

(6) providing the Secretary with a nonjudicial foreclosure procedure will reduce unnecessary litigation by removing many foreclosures from the courts where they contribute to overcrowded calendars.

(b) The purpose of this title is to create a uniform Federal foreclosure remedy for multiunit residential and nonresidential mortgages held by the Secretary of Housing and Urban Development pursuant to title II of the National Housing Act or section 312 of the Housing Act of 1964.

DEFINITIONS

SEC. 403. As used in this title—

(1) "mortgage" means a deed of trust, mortgage, deed to secure debt, security agreement, or any other form of instrument under which any interest in property, real, personal or mixed, or any interest in property including leaseholds, life estates, reversionary interests, and any other estates under applicable State law, is conveyed in trust, mortgaged, encumbered, pledged, or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of an obligation;

(2) "multifamily mortgage" means a mortgage held by the Secretary pursuant to title II of the National Housing Act or section 312 of the Housing Act of 1964 covering any property, except a property on which there is located a one- to four-family residence;

(3) "mortgage agreement" means the note or debt instrument and the mortgage instrument, deed of trust instrument, trust deed, or instrument or instruments creating the mortgage, including any instrument incorporated by reference therein (including any applicable regulatory agreement), and any instrument or agreement amending or modifying any of the foregoing;

(4) "mortgagor" means the obligor, grantor, or trustor named in the mortgage agreement and, unless the context otherwise indicates, includes the current owner of record of the security property whether or not personally liable on the mortgage debt;

(5) "person" includes any individual, group of individuals, association, partnership, corporation, or organization;

(6) "record" and "recorded" include "register" and "registered" in the instance of registered land;

(7) "security property" means the property, real, personal or mixed, or an interest in property, including leaseholds, life estates, reversionary interests, and any other estates under applicable State law, together with fixtures and other interests subject to the lien of the mortgage under applicable State law;

(8) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands, and Indian tribes as defined by the Secretary;

(9) "county" means county as defined in section 2 of title I, United States Code; and

(10) "Secretary" means the Secretary of Housing and Urban Development.

MORTGAGES SUBJECT TO ACT

SEC. 404. Multifamily mortgages held by the Secretary encumbering real estate located in any State may be foreclosed by the Secretary in accordance with this title, or pursuant to other foreclosure procedures available, at the option of the Secretary.

DESIGNATION OF FORECLOSURE COMMISSIONER

SEC. 405. A foreclosure commissioner or commissioners designated pursuant to this title shall have a nonjudicial power of sale as provided in this title. Where the Secretary is the holder of a multifamily mortgage, the Secretary may designate a foreclosure commissioner and, with or without cause, may designate a substitute foreclosure commissioner to replace a previously designated foreclosure commissioner, by executing a duly acknowledged, written designation stating the name and business or residential address of the commissioner or substitute commissioner. The designation shall be effective upon execution. Except as provided in section 408(b), a copy of the designation shall be mailed with each copy of the notice of default and foreclosure sale served by mail in accordance with section 409(1). The foreclosure commissioner, if a natural person, shall be a resident of the State in which the security property is located and, if not a natural person, the foreclosure commissioner must be duly authorized to transact business under the laws of the State in which the security property is located. The foreclosure commissioner shall be a person who is responsible, financially sound and competent to conduct the foreclosure. More than one foreclosure commissioner may be designated. If a natural person is designated as foreclosure commissioner or substitute foreclosure commissioner, such person shall be designated by name, except that where such person is designated in his or her capacity as an official or employee of the government of the State or subdivision thereof in which the security property is located, such person may be designated by his or her unique title or position instead of by name. The Secretary shall be a guarantor of payment of any judgment against the foreclosure commissioner for damages based upon the commissioner's failure properly to perform the commissioner's duties. As between the Secretary and the mortgagor, the Secretary shall bear the risk of any financial default by the foreclosure commissioner. In the event that the Secretary makes any payment pursuant to the preceding two sentences, the Secretary shall be fully subrogated to the rights satisfied by such payment.

PREREQUISITES TO FORECLOSURE

SEC. 406. Foreclosure by the Secretary under this title of a multifamily mortgage may be commenced, as provided in section 408, upon the breach of a covenant or condition in the mortgage agreement for which foreclosure is authorized under the mortgage if any previously pending proceeding, judicial or nonjudicial, separately instituted by the Secretary to foreclose the mortgage other than under this title has been withdrawn, dismissed, or otherwise terminated. No such separately instituted foreclosure proceeding on the mortgage shall be instituted by the Secretary during the pendency of foreclosure pursuant to this title. Nothing in this title shall preclude the Secretary from enforcing any right, other than foreclosure, under applicable State law, including any right to obtain a monetary judgment. Nothing in this title shall preclude the Secretary from foreclosing under this title where the Secretary has obtained or is seeking any other remedy available pursuant to Federal or State law or under the mortgage agreement, including, but not limited to, the appointment of a receiver, mortgage-in-possession status or relief under an assignment of rents.

NOTICE OF DEFAULT AND FORECLOSURE SALE

SEC. 407. (a) The notice of default and foreclosure sale to be served in accordance with this title shall be subscribed with the name and address of the foreclosure commissioner and the date on which subscribed, and shall set forth the following information:

(1) the names of the Secretary, the original mortgagee and the original mortgagor;

(2) the street address or a description of the location of the security property, and a description of the security property, or so much thereof as is to be offered for sale, sufficient to identify the property to be sold;

(3) the date of the mortgage, the office in which the mortgage is recorded, and the liber and folio or other description of the location of recordation of the mortgage;

(4) the failure to make payment, including the due date of the earliest installment payment remaining wholly unpaid as of the date the notice is subscribed, or the description of other default or defaults upon which foreclosure is based, and the acceleration of the secured indebtedness;

(5) the date, time, and place of the foreclosure sale;

(6) a statement that the foreclosure is being conducted pursuant to the Multifamily Mortgage Foreclosure Act of 1981;

(7) the types of costs, if any, to be paid by the purchaser upon transfer of title; and

(8) the amount and method of deposit to be required at the foreclosure sale (except that no deposit shall be required of the Secretary), the time and method of payment of the balance of the foreclosure purchase price and other appropriate terms of sale.

(b) As a condition and term of sale, the Secretary may require that the purchaser at a foreclosure sale under this title agree to continue to operate the security property in accordance with the terms, as appropriate, of the loan program under section 312 of the Housing Act of 1964, the program under which insurance under title II of the National Housing Act was originally provided with respect to such property, or any applicable regulatory or other agreement in effect with respect to such property immediately prior to the time of foreclosure sale.

COMMENCEMENT OF FORECLOSURE

SEC. 408. (a) If the Secretary as holder of a multifamily mortgage determines that the prerequisites to foreclosure set forth in section 406 are satisfied, the Secretary may request the foreclosure commissioner to commence foreclosure of the mortgage. Upon such request, the foreclosure commissioner shall commence foreclosure of the mortgage, by commencing service of a notice of default and foreclosure sale in accordance with section 409.

(b) Subsequent to commencement of a foreclosure under this title, the Secretary may designate a substitute foreclosure commissioner at any time up to forty-eight hours prior to the time of foreclosure sale, and the foreclosure shall continue without prejudice, unless the substitute commissioner, in his or her sole discretion, finds that continuation of the foreclosure sale will unfairly affect the interests of the mortgagor. In the event that the substitute commissioner makes such a finding, the substitute commissioner shall cancel the foreclosure sale, or adjourn such sale in the manner provided in section 411(c). Upon designation of a substitute foreclosure commissioner, a copy of the written notice of such designation referred to in section 405 shall be served upon the persons set forth in section 409(1) of this title (1) by mail as provided in such section 409 (except that the minimum time periods between mailing and the date of foreclosure sale prescribed in such section shall not apply to notice by mail pursuant to this subsection) or (2) in any other manner, which in the substitute commissioner's sole discretion, is conducive to achieving timely notice of such substitution. In the event a substitute foreclosure commissioner is designated less than forty-eight hours prior to the time of the foreclosure sale, the pending foreclosure shall be terminated and a new foreclosure shall be commenced by commencing service of a new notion of default and foreclosure sale.

SERVICE OF NOTICE OF DEFAULT AND FORECLOSURE SALE

SEC. 409. The foreclosure commissioner shall serve the notice of default and foreclosure sale provided for in section 407 upon the following persons and in the following manner, and no additional notice shall be required to be served notwithstanding any notice requirements of any State or local law—

(1) NOTICE BY MAIL.—The notice of default and foreclosure sale, together with the designation required by section 405, shall be sent by certified or registered mail, postage prepaid and return receipt requested, to the following persons:

(A) the current security property owner of record, as the record exists forty-five days prior to the date originally set for foreclosure sale, whether or not the notice describes a sale adjourned as provided in this title;

(B) the original mortgagor and all subsequent mortgagors of record or other persons who appear of record or in the mortgage agreement to be liable for part or all of the mortgage debt, as the record exists forty-five days prior to the date originally set for foreclosure sale, whether or not the notice describes a sale adjourned as provided in this title, except any such mortgagors or persons who have been released; and

(C) all persons holding liens of record upon the security property, as the record exists forty-five days prior to the date originally set foreclosure sale, whether or not the notice describes a sale adjourned as provided in this title.

Notice under clauses (A) and (B) of this paragraph shall be mailed at least twenty-one days prior to the date of foreclosure sale, and shall be mailed to the owner or mortgagor at the address stated in the mortgage agreement, or, if none, to the address of the security property, or, at the discretion of the foreclosure commissioner, to any other address believed to be that of such owner or mortgagor. Notice under clause (C) of this paragraph shall be mailed at least ten days prior to the date of foreclosure sale, and shall be mailed to each such lienholder's address as stated of record or, at the discretion of the foreclosure commissioner, to any other address believed to be that of such lienholder. Notice by mail pursuant to this subsection or section 408(b) of this title shall be deemed duly given upon mailing, whether or not received by the addressee and whether or not a return receipt is received or the letter is returned.

(2) PUBLICATION.—A copy of the notice of default and foreclosure sale shall be published, as provided herein, once a week during three successive calendar weeks, and the date of last publication shall be not less than four nor more than twelve days prior to the sale date. The information included in the notice of default and foreclosure sale pursuant to section 407(a)(4) may be omitted, in the foreclosure commissioner's discretion, from the published notice. Such publication shall be in a newspaper or newspapers having general circulation in the county or counties in which the security property being sold is located. To the extent practicable, the newspaper or newspapers chosen shall be a newspaper or newspapers, if any is available, having circulation conducive to achieving notice of foreclosure by publication. Should there be no newspaper published at least weekly which has a general circulation in one of the counties in which the security property being sold is located, copies of the notice of default and foreclosure sale shall be posted in at least three public places in each such county at least twenty-one days prior to the date of sale.

(3) POSTING.—A copy of the notice of default and foreclosure sale shall be posted in a prominent place at or on the real property to be sold at least seven days prior to the foreclosure sale, and entry upon the premises for this purpose shall be privileged as against all persons. If the property consists of two or more noncontiguous parcels of land, a copy of the notice of default and foreclosure sale shall be posted in a prominent place on each such parcel. If the security property consists of two or more separate buildings, a copy of the notice of default and foreclosure sale shall be posted in a prominent place on each such building. Posting at or on the premises shall not be required where the foreclosure commissioner, in the commissioner's sole discretion, finds that the act of posting will likely cause a breach of the peace or that posting may result in an increased risk of vandalism or damage to the property.

PRESALE REINSTATEMENT

SEC. 410. (a) Except as provided in sections 408(b) and 411(c), the foreclosure commissioner shall withdraw the security property from foreclosure and cancel the foreclosure sale only if—

(1) the Secretary so directs the commissioner prior to or at the time of sale;

(2) the commissioner finds, upon application of the mortgagor at least three days prior to the date of sale, that the default or defaults upon which the foreclosure is based did not exist at the time of service of the notice of default and foreclosure sale; or

(3)(A) in the case of a foreclosure involving a monetary default, there is tendered to the foreclosure commissioner before public auction is completed the entire amount of principal and interest which would be due if payments under the mortgage had not been accelerated; (B) in the case of a foreclosure involving a nonmonetary default, the foreclosure commissioner, upon application of the mortgagor before the date of foreclosure sale, finds that such default is cured; and (C) there is tendered to the foreclosure commissioner before public auction is completed all amounts due under the mortgage agreement (excluding additional amounts which would have been due if mortgage payments had been accelerated), all amounts of expenditures secured by the mortgage and all costs of foreclosure incurred for which payment from the proceeds of foreclosure is provided in section 412, except that the Secretary shall have discretion to refuse to cancel a foreclosure pursuant to this clause if the current mortgagor or owner of record has on one or more previous occasions caused a foreclosure of the mortgage, commenced pursuant to this title or otherwise, to be canceled by curing a default.

(b) Prior to withdrawing the security property from foreclosure in the circumstances described in subsection (a)(2) or (a)(3), the foreclosure commissioner shall afford the Secretary a reasonable opportunity to demonstrate why the security property should not be so withdrawn.

(c) In any case in which a foreclosure commenced under this title is canceled, the mortgage shall continue in effect as though acceleration had not occurred.

(d) If the foreclosure commissioner cancels a foreclosure sale under this title, a new foreclosure may be subsequently commenced as provided in this title.

CONDUCT OF SALE; ADJOURNMENT

SEC. 411. (a) The date of foreclosure sale set forth in the notice of default and foreclosure sale shall not be prior to thirty days after the due date of the earliest installment wholly unpaid or the earliest occurrence of any uncured nonmonetary default upon which foreclosure is based. Foreclosure sale pursuant to this title shall be at public auction, and shall be scheduled to begin between the hours of 9 o'clock ante meridian and 4 o'clock post meridian local time on a day other than Sunday or a public holiday as defined by section 6103(a) of title 5, United States Code, or State law. The foreclosure sale shall be held at a location specified in the notice of default and foreclosure sale, which shall be a location where foreclosure real estate auctions are customarily held in the county or one of the counties in which the property to be sold is located, or at a courthouse therein, or at or on the property to be sold. Sale of security property situated in two or more counties may be held in any one of the counties in which any part of the security property is situated.

(b) The foreclosure commissioner shall conduct the foreclosure sale in accordance

with the provisions of this title and in a manner fair to both the mortgagor and the Secretary. The foreclosure commissioner shall attend the foreclosure sale in person, or, if there are two or more commissioners, at least one shall attend the foreclosure sale. In the event that no foreclosure commissioner is a natural person, the foreclosure commissioner shall cause its duly authorized employee to attend the foreclosure sale to act on its behalf. Written one-price sealed bids shall be accepted by the foreclosure commissioner from the Secretary and other persons for entry by announcement by the commissioner at the sale. The Secretary and any other person may bid at the foreclosure sale, including the Secretary or any other person who has submitted a written one-price bid, except that the foreclosure commissioner or any relative, related business entity or employee of such commissioner or entity shall not be permitted to bid in any manner on the security property subject to foreclosure sale. The foreclosure commissioner may serve as auctioneer, or, in accordance with regulations of the Secretary, may employ an auctioneer to be paid from the commission provided for in section 412(5).

(c) The foreclosure commissioner shall have discretion, prior to or at the time of sale, to adjourn or cancel the foreclosure sale if the commissioner determines, in the commissioner's sole discretion, that circumstances are not conducive to a sale which is fair to the mortgagor and the Secretary or that additional time is necessary to determine whether the security property should be withdrawn from foreclosure as provided in section 410. The foreclosure commissioner may adjourn a sale to a later hour the same day without the giving of further notice, or may adjourn the foreclosure sale for not less than nine nor more that twenty-four days, in which case the commissioner shall serve a notice of default and foreclosure sale revised to recite that the foreclosure sale has been adjourned to a specified date and to include any corrections the foreclosure commissioner deems appropriate. Such notice shall be served by publication, mailing and posting in accordance with section 409, except that publication may be made on any of three separate days prior to the revised date of foreclosure sale, and mailing may be made at any time at least seven days prior to the date to which the foreclosure sale has been adjourned.

FORECLOSURE COSTS

SEC. 412. The following foreclosure costs shall be paid from the sale proceeds prior to satisfaction of any other claim to such sale proceeds:

(1) necessary advertising costs and postage incurred in giving notice pursuant to sections 409 and 411;

(2) mileage for posting notices and for the foreclosure commissioner's attendance at the sale at the rate provided in section 1921 of title 28, United States Code, for mileage by the most reasonable road distance;

(3) reasonable and necessary costs actually incurred in connection with any necessary search of title and lien records;

(4) necessary out-of-pocket costs incurred by the foreclosure commissioner to record documents; and

(5) a commission for the foreclosure commissioner for the conduct of the foreclosure to the extent authorized by regulations issued by the Secretary.

DISPOSITION OF SALE PROCEEDS

SEC. 413. Money realized from a foreclosure sale shall be made available for obligation and expenditure first to cover the costs of foreclosure provided for in section 412; then to pay valid tax liens or assessments prior to the mortgage; then to pay any liens recorded prior to the recording of the mortgage which are required to be paid in conformity with the terms of sale in the notice of default and foreclosure sale; then to service charges and advancements for taxes, assessments, and property insurance premiums; then to the interest; then to the principal balance secured by the mortgage (including expenditures for the necessary protection, preservation, and repair of the security property as authorized under the mortgage agreement and interest thereon if provided for in the mortgage agreement); and then to late charges. Any surplus after payment of the foregoing shall be paid to holders of liens recorded after the mortgage and then to the appropriate mortgagor. If the person to whom such surplus is to be paid cannot be located, or if the surplus available is insufficient to pay all claimants and the claimants cannot agree on the allocation of the surplus, or if any person claiming an interest in the mortgage proceeds does not agree that some or all of the sale proceeds should be paid to a claimant as provided in this section, that part of the sale proceeds in question may be deposited by the foreclosure commissioner with an appropriate official or court authorized under law to receive disputed funds in such circumstances. If such a procedure for the deposit of disputed funds is not available, and the foreclosure commissioner files a bill of interpleader or is sued as a stakeholder to determine entitlement to such funds, the foreclosure commissioner's necessary costs in taking or defending such action shall be deductible from the disputed funds.

TRANSFER OF TITLE AND POSSESSION

SEC. 414. (a) The foreclosure commissioner shall deliver a deed or deeds to the purchaser or purchasers and obtain the balance of the purchase price in accordance with the terms of sale provided in the notice of default and foreclosure sale.

(b) The foreclosure deed or deeds shall convey all of the right, title, and interest in the security property covered by the deed which the Secretary as holder, the foreclosure commissioner, the mortgagor, and any other persons claiming by, through, or under them, had on the date of execution of the mortgage, together with all of the right, title, and interest thereafter acquired by any of them in such property up to the hour of sale, and no judicial proceeding shall be required ancillary or supplementary to the procedures provided in this title to assure the validity of the conveyance or confirmation of such conveyance.

(c) A purchaser at a foreclosure sale held pursuant to this title shall be entitled to possession upon passage of title to the mortgaged property, subject only to an interest or interest senior to that of the mortgage, and any other person remaining in possession thereafter shall be deemed a tenant at sufferance.

(d) There shall be no right of redemption, or right of possession based upon right of redemption, in the mortgagor or others subsequent to a foreclosure pursuant to this title.

(e) When conveyance is made to the Secretary, no tax shall be imposed or collected with respect to the foreclosure commissioner's deed, whether as a tax upon the instrument or upon the privilege of conveying or transferring title to the property. Failure to collect or pay a tax of the type and under the circumstances stated in the preceding sentence shall not be grounds for refusing to record such a deed, for failing to recognize such recordation as imparting notice of for denying the enforcement of such a deed and its provisions in any State or Federal court.

RECORD OF FORECLOSURE AND SALE

SEC. 415. (a) To establish a sufficient record of foreclosure and sale, the foreclosure commissioner shall include in the recitals of the deed to the purchaser or prepare an affidavit or addendum to the deed stating—

(1) that the mortgage was held by the Secretary;

(2) the particulars of the foreclosure commissioner's service of notice of default and foreclosure sale in accordance with sections 409 and 411;

(3) that the foreclosure was conducted in accordance with the provisions of this title and with the terms of the notice of default and foreclosure sale;

(4) a correct statement of the costs of foreclosure, calculated in accordance with section 412; and

(5) the name of the successful bidder and the amount of the successful bid.

(b) The deed executed by the foreclosure commissioner, the foreclosure commissioner's affidavit and any other instruments submitted for recordation in relation to the foreclosure of the security property under this title shall be accepted for recordation by the registrar of deeds or other appropriate official of the county or counties in which the security property is located upon tendering of payment of the usual recording fees for such instruments.

COMPUTATION OF TIME

SEC. 416. Periods of time provided for in this title shall be calculated in consecutive calendar days including the day or days on which the actions or events occur or are to occur for which the period of time is provided and including the day on which an event occurs or is to occur from which the period is to be calculated.

SEPARABILITY

SEC. 417. If any clause, sentence, paragraph or part of this title shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid or invalid as applied to a class of cases, such judgment shall not affect, impair, or invalidate the remainder thereof and of this title, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

REGULATIONS

SEC. 418. The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this title.

TITLE V—RURAL HOUSING

AUTHORIZATIONS

SEC. 501. (a) Section 513 of the Housing Act of 1949 is amended—

(1) by striking out "not to exceed $3,797,600,000 with respect to the fiscal year ending September 30, 1981" in subsection (a) and inserting in lieu thereof "not to exceed $3,700,600,000 with respect to the fiscal year ending September 30, 1982";

(2) by striking out "not less than $3,120,000,000" in subsection (a)(1) and inserting in lieu thereof 'not less than $3,170,000,000";

(3) by striking out subsection (b)(2) and inserting in lieu thereof the following:

"(2) not to exceed $49,000,000 for loans and grants pursuant to section 504 for the fiscal year ending September 30, 1982, of which not more than $25,000,000 shall be available for grants;";

(4) by striikng out subsection (b)(3) and inserting in lieu thereof the following:

"(3) not to exceed $24,000,000 for financial assistance pursuant to section 516 for the fiscal year ending September 30, 1982;"; and

(5) by striking out "and" at the end of subsection (b)(4), by striking out the period at the end of subsection (b)(5) and inserting in lieu thereof "; and", and by adding at the end thereof the following:

"(6) not to exceed $2,000,000 for the purposes of section 509(c) for the fiscal year ending September 30, 1982.".

(b) Section 515(b)(5) of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(c) Section 517(a)(1) of such Act is 1981" and inserting in lieu thereof "September 30, 1982".

(d) Section 521(a)(2)(D) of such Act is amended—

(1) by striking "$493,000,000" and inserting in lieu thereof "$398,000,000"; and

(2) by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(e) Section 523 of such Act is amended—

(1) by striking out "September 30, 1981" each place it appears in subsection (f) and inserting in lieu thereof "September 30, 1982";

(2) by adding at the end of subsection (f) the following: "None of the funds appropriated under this subsection shall be available for the purposes of subsection (b)(1)(B)."; and

(3) by striking out "not to exceed $2,500,000 for fiscal year 1981" in the first sentence of subsection (g) and inserting in lieu thereof "not to exceed $1,000,000 for fiscal year 1982".

DEFINITION OF LOW INCOME

SEC. 502. Section 501(b)(4) of the Housing Act of 1949 is amended to read as follows:

"(4) For the purpose of this title, the term 'persons of low income' and the term 'persons and families of low-income' mean persons and families whose incomes do not exceed those levels established for any area by the Secretary with adjustments for smaller and larger families.".

INTEREST SUBSIDY PROGRAM

SEC. 503. Section 521(a)(1)(B) of the Housing Act of 1949 is amended by striking out "shall" and inserting in lieu thereof "may".

REPORTS

SEC. 504. The Secretary of Agriculture shall transmit a report to the Congress not later than March 1, 1982, setting forth—

(1) various options for presenting the budget of the Farmers Home Administration and alternatives to the use of Federal Financing Bank financing for rural housing programs;

(2) workable definitions of "low income" which will target Farmers Home Administration housing assistance programs to a population substantially equivalent to the population served by the Department of Housing and Urban Development's assisted housing programs;

(3) the effect of a requirement that 30 per centum of assistance provided Farmers Home Administration be provided to families with incomes at 50 per centum of area median income and recommendations for contribution requirements which will achieve equity with the contribution requirements of the Department of Housing and Urban Development's assisted housing programs;

(4) recommendations for ensuring that subsidy levels for assisted families are minimized and that assisted families with similar circumstances in different regions of the country are treated equally; and

(5) the Farmers Home Administration's efforts to minimize the cost of housing subsidized under its programs and the Farmers Home Administration's use of existing lower cost housing technology.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, may I just speak briefly as chairman of the Banking Committee to compliment the managers on both sides in the expeditious way they have handled a very comprehensive housing bill.

I must admit that it may have been a mistake to let Senator LUGAR manage the bill because in the past years when I have it has always taken me at least 2 days to get this bill through the Senate and here he has managed to do it in one afternoon. I probably should not have allowed such expertise to be displayed in the Chamber. I will be displaced forever.

But very seriously I do wish to compliment the managers on both sides for the handling of this bill this afternoon.

Mr. STEVENS. Mr. President, it is the intention of the leadership that there will be no more votes this evening.

Mr. President, what is the pending business?

The PRESIDING OFFICER. There is no pending business.

ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak therein not to exceed 5 minutes each.

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

ANTITRUST SUITS BY FOREIGN GOVERNMENTS

Mr. PERCY. Mr. President, I was pleased to be added earlier this week as a cosponsor of S. 816, legislation to amend the Clayton Act to limit the circumstances under which foreign governments may sue for violations of the antitrust laws.

As the Senator from one of the major exporting States of this country and from a city which is a crossroad of international business and financial interests, I have made it a high priority throughout my Senate career to eliminate as many barriers as I can to the free flow of international trade and business relationships.

For this reason, I very strongly support the principle of S. 816:

That our Government and foreign governments should be on equal footing in U.S. courts and that foreign governments should not be denied the right to sue for antitrust damages in our courts so long as that right is similarly available to us in that foreign country.

In 1978, the Supreme Court ruled in an antitrust case referred to as Pfizer against India that a foreign government is a "person" as defined under section 4 of the Clayton Act and is thus entitled to bring treble damage antitrust actions in U.S. courts.

The pending legislation, S. 816, would modify this decision by amending the Clayton Act to specifically permit antitrust actions by a foreign government in American courts provided that:

Similar conduct is forbidden by the laws of that foreign government; that those laws are enforced and that the United States be permitted to recover actual damages for similar conduct under the foreign laws.

While I do subscribe to the principle on which the bill rests, I am concerned at the same time that the bill be a workable piece of legislation. Some recent reservations on the part of the State Department have been brought to my attention and I hope they can be resolved before this legislation reaches final passage.

Mr. President, I ask unanimous consent that a letter from the Department of State to my distinguished colleague, the chairman of the Judiciary Committee, be printed in the RECORD at this point.

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

DEPARTMENT OF STATE,
Washington, D.C.

HON. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate.

DEAR MR. CHAIRMAN: The Department of State's views have been requested concerning S. 816, a bill to amend the Clayton Act to limit the circumstances under which foreign governments may sue for violations of the antitrust laws.

The Department is not able to support this bill as it presently stands. The present text would restrict suits by both foreign governments and their instrumentalities, without further definition. The effect could be to affect suits by commercial instrumentalities of foreign governments which are, in fact, vigorous competitors in the marketplace fully subject to suit under our laws. Further, the present text incorporates a three-tiered test of reciprocity which could be very difficult, if not impossible, for any other country to meet, given the variations in concept and approach involved in even the most effective foreign competition laws. The result is that the bill, in its present form, could be inequitable and injurious to U.S. commercial interests abroad.

The Department could support this legislation if it were clarified in two respects. First, we believe it should clearly exclude the commercial instrumentalities of foreign governments from its coverage, so that an entity that would be subject to suit in the United States could likewise sue on the same basis as a private entity here. Second, we believe that the bill should be clarified to ensure that the reciprocity test could be met by countries that have strong and vigorously enforced antitrust legislation, such as the Federal Republic of Germany, even if that legislation may differ in its particulars from U.S. legislation.

Sincerely,

RICHARD FAIRBANKS,
Assistant Secretary for Congressional Relations.

Mr. PERCY. Mr. President, I appreciate the special effort made by the Judiciary Committee to accommodate the concerns of the State Department by adding report language to address both points raised in its letter.

I ask unanimous consent that the language from Senate Report 97–78, excerpted as follows, be printed in the RECORD at this point.

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

THE ANTITRUST RECIPROCITY ACT OF 1981

The "similar conduct" test under the bill expresses the committee's understanding that the foreign government's competition laws need not be identical to U.S. antitrust laws in scope or formulation. What is necessary is

that the type of conduct at issue under the foreign government's section 4 complaint must have been prohibited by the laws of that nation, including any multinational treaty to which the nation is a party and which is enforceable through a damage action in the courts of that nation.

For example, section 1 of the Sherman Act broadly prohibits all contracts and combinations in restraint of trade. If a foreign government wishes to claim that it was victimized by price-fixing—one category of restraint covered by section 1 of the Sherman Act—it must establish only that its laws also prohibited price-fixing. It would be irrelevant that the foreign nation had not chosen to outlaw other types of restraints that are also reached by section 1, such as resale price maintenance agreements or tying arrangements.

In this way, the bill recognizes that foreign sovereigns can decide what kinds of anticompetitive conduct they want to prohibit and to determine how they want to formulate these prohibitions. In no sense, therefore, does the bill condition the antitrust rights of foreign governments, which have applicable and enforced competition laws, on a willingness to copy the particulars of U.S. statutes. In so interpreting the laws of a foreign state, a court may consider the representations of officials of the foreign state as well as those of relevant U.S. Government agencies such as the Department of State and the Department of Justice, or any other relevant evidence.

Finally, it should be noted that the bill applies only to suits by, or on behalf of, a "foreign government or an instrumentality of a foreign government." Thus, it applies to activities conducted by the foreign government, either directly or through subordinate units or entities that exercise sovereign power or act on its behalf. The bill is not intended, however, to apply to entities that conduct exclusively or primarily commercial activities, even though the government may be the sole or controlling owner of such commercial entities.

In determining whether the entity allegedly affected by the challenged conduct is covered by the provisions of S. 816, the definition of "commercial activity" found in the Foreign Sovereign Immunities Act, 28 U.S.C. section 1603(d), should be instructive. For example, the bill would apply to a procurement agency that is engaged primarily or exclusively in making purchases on behalf of a foreign government or on behalf of a public institution acting on behalf of the government, even if that procurement agency is separately established or incorporated. By contrast, the bill would not apply to a company that is primarily or exclusively engaged in standard commercial operations, like the manufacture of automobiles or the operation of an airline, even if a foreign government owns the company.

Mr. PERCY. Mr. President, I know that the concerns raised by the State Department were shared by some of our allies and major trading partners as well. The report language certainly goes a long way in expressing the intention of the committee to allay the fears of our friends abroad.

I hope that these matters can be further discussed on the floor when the bill is considered by the Senate.

I think we would render a service to ourselves, to U.S. businesses in the international markets, and to our allies by discussing these issues forthrightly on the floor as a means of avoiding any possible misunderstanding or injury to U.S. commercial interests abroad.

SPEECH BY NADEEM MAASRY

Mr. PERCY. Mr. President, the problem of how best to address current world economic problems created by the flow of capital to the OPEC nations and to meet the long-term capital requirements of the oil-consuming countries is an issue we must face. In a recent speech entitled, "Toward the Ideal Marriage: Energy Alternatives—and Middle East Funding," presented to the Business Week Executive Conference, Nadeem Maasry, vice president of Financial General Bankshares, provided some very useful insights into this problem. Mr. Maasry suggests a solution which promotes free trade and private enterprise. I ask unanimous consent that excerpts from Mr. Maasry's speech be printed in the RECORD at this point.

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

TOWARD THE IDEAL MARRIAGE: ENERGY ALTERNATIVES—AND MIDDLE EAST FUNDING

When the capital needs of the oil-consuming nations—both the rich and the poor—needed for development of alternative energy are compared with the petrofund surpluses, one is tempted to explore a pertinent set of questions. One such question was posed recently by a prominent American banker: Since the West possesses the technological capability to develop new energy sources and a capital surplus exists in the Middle East, it would seem to be a perfect marriage. I quote, "So it is not unrealistic to expect OPEC, sooner or later, directly or indirectly, to play an important role in the development of alternative energy."

I submit that in theory, such a marriage could take place and it would truly be a marriage made in heaven. But, in reality, I have to say today that too many disincentives exist for one to be very sanguine that such a perfect union will occur unless current circumstances are altered significantly.

In the majority of the oil-producing countries, insufficient private-sector framework exists to allocate the surplus to productive ends, creating the basis for long-term growth. Rather, in country after country, there are cadres of civil servants toiling within billowing bureaucracies, content to deposit oil revenues in risk-free bank deposits, treasury bonds and other secure instruments. It must be understood that the bulk of oil revenues rests in government hands, indeed in the hands of civil servants who cannot take risks and who are ultra-conservative in their investment policies. The civil servant is not interested in long-term returns.

I wish to emphasize today that there is an unfortunate, though perhaps understandable, lack of long-term planning in the bureaucracies and among the leadership in many of the surplus oil-producing countries. But coupled with that assessment is a fact of equal importance: Oil-consuming nations have demonstrated a shortsighted approach toward attracting the investment to petrofunds into alternative energy projects by failing to promote greater cooperation between the West and the Middle East; by failing to encourage the growth of private banking counterparts in the surplus countries and by failing to develop creative financing ideas.

Such investments would serve multiple purposes:

Provide, for the first time, reliable channels for the investment of petrofunds over the longer term.

Relieve oil-producing nations of the mounting pressure to deplete their petroleum reserves.

Diffuse inflationary pressures in the oil-producing lands by offering investment instruments that would be more attractive than real estate and other nonproductive opportunities.

Aid in the restructuring of the global economy in a manner serving the mutual interests of the oil-consuming and oil-producing nations.

A marriage between western alternative energy technology and petrofund surpluses might have been consummated by now if appropriate approaches had been made. But with far too much frequency, most approaches centered around transactions that featured the sale of technology for petrofunds rather than equity. There is no future in such deals.

Here and there, encouraging signs are to be seen in the types of quasi-governmental/private-sector ventures now being formed. They will serve as the transitional institutions to finance the underpinnings of a free market. But they are few and far between and are laboring against formidable odds. As long as the governments of the oil-rich nations dispense increasing social benefits to the populace and employ them in greater numbers as civil servants, the less likely it will be that a potential managerial class will be attracted to risk-oriented projects.

So, we are faced with the challenge of altering a vicious cycle, characterized by petrofunds, larger government bureaucracies, and woeful progress in realizing the potential of a thriving and lasting system of free enterprise.

In this influential audience and throughout this country are individual businessmen, investors and public policy leaders who could alter the present course of the Middle East economies by helping them to create the foundations of a private sector which will enhance political and economic stability and sustain commerce around the world in the years ahead.

After World War II, the world faced another mighty challenge. In a joint effort, the Marshall Plan was launched in Europe. Some $13 billion in government aid and billions more in private investment were expended and strong economies were created.

Today, despite the frictions of our time, it is still possible for business and society to be allies in the pursuit of both progress and the general good, but only if accommodations and compromises are made to arrest the slide toward economic disaster and only if preparations are accelerated for the transition to the new energy era.

This will require a new kind of relationship between oil-producing countries, developing nations and the industrialized states of the West. What is needed is a Marshall Plan in reverse—and I emphasize the word "Plan." Plans must be drawn up calling for U.S. and other western expertise, rather than money, to be made available and, if combined with local capital, that would create the kind of conditions which led to success in Europe. The key to such an unprecedented effort must be joint action taken interdependently. It will fail without that key

If it does fail, the dream of a perfect marriage between today's petrofunds and tomorrow's alternative energy sources will remain only a dream. This need not happen. Today, it behooves the western world and the oil-consuming nations to reexamine avenues and incentives for constructive petrofund investments of a kind that will assure the oil-producing nations secure long-term investment instruments instead of speculative, fly-by-night will-o'-the-wisps.

MR. NADEEM G. MAASRY

Mr. Maasry is Senior Vice President of Financial General Bankshares Inc., which is

one of the largest multi-bank bank holding companies with banks in five different jurisdictions in the United States. He is responsible for all international commitments.

Mr. Maasry was born in Lebanon and received his education at the American University of Beirut and at Johns Hopkins University in this country.

He is credited with conceiving of the idea as well as putting together and organizing the Kuwait Financial Centre in 1974, the first investment bank totally in the private sector in Kuwait with participation from a U.S. financial institution. The Kuwait Financial Centre has grown to a size of over $150 million by year-end 1980. It is therefore from his own personal experience in an oil surplus country that Mr. Maasry talks to us today about the necessity to help a nascent private sector in the financial markets of the oil countries to play a bigger role in energy project financing as well as other investments.

Mr. Maasry has served on a number of bank boards including Credit European in Luxembourg and the Kuwait Financial Centre in Kuwait. He has participated in several important conferences and symposia and written extensively on the subject of money and banking in the Arab world.

CITIZENSHIP EDUCATION

Mr. PERCY. Mr. President, the Center for Citizenship Education has brought to my attention a recent speech by Bob Stuart, chairman of the board, National Can Corp., delivered to students at Northwestern University in Chicago, Ill. This speech gives full meaning to positive citizenship development in America. For the interest of my colleagues, I ask unanimous consent that the speech be printed in the RECORD at this point.

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

ADDRESS BY BOB STUART

In a matter of minutes the President of the United States will be addressing the Nation on a very important aspect of citizenship—an economic policy designed to insure continuing freedom for all Americans. The President, we are told by White House spokesmen, wishes to stress that while "patriotism" is at issue, acceptance of what appears to be a stringent economic policy is an act of survival. Also, he is urging all citizens not to penalize their congressional representatives for acceding to the proposed cuts in spending. "Do what is best for your country," he seems to be saying—the ultimate value of citizenship.

Back in 1976, the year of our Bicentennial Celebration, the Commissioner of Higher Education for the State of Utah delivered an address to a National Conference for Education and Citizenship in Kansas City. This conference invested nearly one-half million dollars to launch a new and badly needed effort to renew and restore an understanding of citizenship and the values and responsibilities of citizenship among American citizens. Regrettably nothing significant grew from that conference.

Today I come to you as a member of the board of the new Center for Citizenship Education which has launched a whole new thrust to bring that about, and has already brought together a major consortium of every conceivable type of organization and institution interested in promoting responsible citizenship, known as the Council for Advancement of Citizenship. In 1976 that Commissioner, delivered a speech entitled "Morality and Citizenship: Whose Responsibility?" I have recast that title somewhat to come up with my own for this evening: "The Moral Crisis in Citizenship Education: Whose Responsibility?"

Today that former Commissioner of Higher Education is our new Secretary of Education, appointed by a newly elected President. He is, of course, Terrel H. Bell. Dr. Bell can now look out across a nation in which the answer to the question he posed is as elusive as it was in 1976. At this point in our history, however, the question he raised stems not just from a national dilemma but truly from a national crisis. We seem to be cast adrift without a rudder in a sea of problems from which there is no escape. Where should we be heading? No one, at least no one we are willing to trust is pointing firmly and insistently toward the harbor or shoreline. Even if we should agree on where the shoreline is, who is going to take us there? If we all pull together, will we surely be saved? Or would it be better to strike out, each on his own "looking out for Number One," hoping that the others make it to safety too, but the devil take the hindmost?

Today we Americans are in a state of confusion closely bordering on malaise. We are no longer sure of who we are or where we are going. We are searching for meaning in life. Our youth are puzzled about whether there are truly any "eternal verities," or whether every decision "depends on the situation." Cheat on an exam? Why not? Gotta get that degree. Anyway, everybody else does it. Snitch on a colleague to gain favor with the boss? Hey, man, it's a dog-eat-dog world. Walk away from the scene of an accident or a crime? Ignore the victim? Of course! You're just asking for trouble if you get yourself involved.

I'm personally convinced that we have let the values of family and community life erode terribly. The overwhelming pressures today are in favor of again using the idiom "looking out for Number One." But can Number One, and that's me or to you that's you, working solely in his or her own self-interest, really protect themselves from our large-scale, quality of life-damaging problems: of inflation, unemployment, environmental degradation, juvenile crime, diminished international prestige and economic woes? Clearly, he or she cannot. They must join with others in common cause, as we have always joined in the past. And he will look for leadership, as we have always looked in the past—and generally found it.

In this inaugural year, we are all looking to the leadership of a newly elected President swept into office by a wave of public dissatisfaction. That dissatisfaction centered on the perception that so many of our national ills, both at home and abroad, were not getting better, but indeed seemed to be getting worse. Whether a new national leader can cure them remains to be seen. Certainly no mere president can do it without the wholehearted support of all of us.

Fortunately it appears that our new President Reagan will undertake to bring us together by reaffirming the values and responsibilities to which we have committed ourselves in the past. He has already reminded us that, while he is proud to have been elected President, he cannot do the job alone, that he must count on every one of us, whatever his or her station in life, to contribute their share to the overall effort to restore our faith in ourselves, our leaders, and our institutions. He will, we can expect, urge us to greater social service, accepting responsibilities to others and expressing that acceptance through concerted government/private sector/voluntary programs to revitalize our families, our neighborhoods, our communities, our agencies of self-government. The willingness we show to work together toward common goals, and to do so skillfully, are together the essence of good citizenship.

How do we move from a confused citizenry to a common condition of effective citizenship? We do it through a restoration of belief in our democratic heritage and of confidence in our mutual ability to surmount obstacles. What convictions, ethics, and values do we hold in common as Americans? We have always been able to answer that question in the past. Two hundred years of testing our democratic beliefs on the forge of hard times has left us a rich legacy from which to draw support for these trying days. They are implicit in the ethical and procedural systems we have developed over the decades—and which we so often take for granted—in fostering individual liberty, equality of opportunity, the rule of law, the American economic system, and our representative government.

Our new President's strategy in coping with the problems he faces must necessarily go far beyond reshaping political bureaucracies to make them more responsive to public needs and more cost-effective in their operations. To succeed, he must focus time and attention on citizenship development in the broadest sense of the term, from cradle to grave. He must include all of us into the process of setting goals and priorities, so that we can agree on where we as a nation ought to be going, and on how we are planning to get there. He must urge the committed to open their circles in welcome to those who are not, and get them committed too. In doing so, he will need the support of this business community, of nonpolitical organizations working in the public sector, of voluntary agencies, and of individual volunteers.

There are plenty of concerned citizens ready to help. Some of them met last spring at Wingspread in Wisconsin, to explore their common interest in strengthening citizenship competence in all its aspects. Representatives of business corporaticns, labor unions, educational institutions, and voluntary associations, they demonstrated their own good citizenship by joining together to create the Council for the Advancement of Citizenship. The goals of the new Council are several fold—to conduct intensive research on what is already going on in the field of citizenship development, to establish an information clearinghouse, and to develop a mass communications program, all with a view toward implementing a national movement at all levels of American life to promote a better understanding of citizenship opportunities and responsibilities.

Fortunately, President Reagan starts from a philosophic position favorable to developing a partnership relation with the private sector. He and his supporters regard the private arena as their natural home. They are citizens who represent private-sector values first and foremost, but who have won a victory in the political arena. They are ready to work with those of us who are committed to the development of those attitudes and citizenship skills which will help us navigate the shoals now upon us and lying just ahead, through a working partnership of public and private enterprise.

But President Reagan's team, fresh from victory at the polls, will find the going even rougher on the high seas. They have already bumped headlong into the established system, in mandating a Federal hiring freeze as a first order of business. Suddenly, they find themselves in confrontation with a bureaucracy skillfully defended by tenured civil servants and supported politically by powerful special-interest groups. In battling the established system on its own turf—or to continue our seaworthy analogy which I as a sailor, a rag and stick yachtsman, like to use—on its own surf the Reagan team has little more change of winning than any of his predecessors.

As we have seen, the Federal bureaucracy tends to change not as the President changes, nor even as the immediate political chief changes. Rather, the bureaucracy tends to

shift with its own constituency, its own special interest group or pressure group, sometimes as leader, sometimes as follower. When American farmers rise in indigation to oppose a regulation just published by the Department of Agriculture, the Department listens carefully and generally, mends its ways. But then, farmers have taken pains to organize in politically potent combinations.

American Indians, on the other hand, found the Bureau of Indian Affairs singularly unresponsive through the years, until they began to do the same. President Reagan will make the bureaucracy more responsive and efficient only as he persuades citizens as a whole to voice their general expectations for more responsive and efficient government in ways that compel the various bureaucracies to listen to the overall citizenry and not just the pressure group.

What then, is the answer? It can be found in citizenship development. Educate citizens in the rules and ethics of the game; show them where they have a voice and how to press the levers of power; and imbue them with the attitudes that go with winning. In this approach there will obviously lie peril for "couldn't-care-less" incumbents, but better government for the citizen-at-large.

The American business community has a special responsibility in responding affirmatively to the dialogue on social responsibility. The nation rightly attributes the extraordinary development of its resources to the aggressive, risk-taking, decision-making skill of uncounted business enterprises, large and small. No other nation has a comparable record. Moreover, business values have played a major role in shaping the American way of life.

Businessmen and business corporations have an outstanding record of social responsibility—first of course to their customers and then to their employees and even to their suppliers, as well as to their shareholders naturally, but also to the communities in which they do business. Top executives who manage public corporations have had to limit their corporations use of profits to support social and civic causes which would not return benefits directly and promptly to all the corporation's shareholders, because the corporation's profits belong to its shareholders; but in spite of that corporate managers have been quick to help address public problems where there could presumably be an indirect return to the corporation's shareholders. Especially have they frequently involved their corporations in dealing with those problems which could not possibly be solved as well, if at all, by government or by other nonbusiness institutions.

My own civic and charitable interests and commitments are but one example of personal and corporate involvement in such social responsibilities by business leaders across the nation. I could speak for hours on that subject alone, but at this moment I merely wish to express my admiration and respect for what businesses and business people are doing in so many individual fields.

However, I believe that in many ways in the movement to develop values and competencies for effective citizenship in the years ahead, business leaders will be increasingly sought after for support and guidance. Business executives know that support and guidance must be forthcoming, in a spirit of responsible citizenship, if business expects to see any reduction in the burden of government regulation and interference of which it complains so bitterly.

I do want to emphasize the moral aspect of our business way-of-life. Ultimate justification for that way-of-life does not lie in the number of automobiles produced, nor on the number of dishwashers and houses, nor even on the standard-of-living, no matter how high. Nor does ultimate justification lie in profits, the business profits are properly the immediate, legitimate objective of business enterprise, and the basis for our high standard of living, and for the continued existence of each business that contributes to it. Rather, it lies in the extraordinary opportunities our economic system provides for self-fulfillment of the individual citizen. More than any previous civilization, America has emphasized freedom and individualism.

The business comunity, in which so much American individualism has sought and found expression, without trampling on the opportunities of others, cannot and would not wish to escape responsibility for helping to provide and expand such opportunities in the future, for joining in the movement to develop effective citizens, and for making decisions that reflect such high ethical standards that the need for government regulation and interference will become superfluous, on the face of it.

Beyond the nurturing of individualism, business institutions have traditionally helped to maintain the Constitutional balance between the government and the society that government is designed to serve. Throughout history, societies have been unitary; that is, state and society have been one—static and, if not immutable, at least highly resistant to change. Only in relatively recent history and in Western Europe did an alternative institutional relationship gradually emerge. There, the separation of church and state created liberating tensions that encouraged the evolution of social and institutional relationships in response to changing needs.

Today, in our own society, the churches unaided cannot preserve an effective counterbalance to the state. Other institutions important to American life such as schools and educational institutions and the business corporation and the nonprofit voluntary association must also play institutional roles in citizenship development, expressing moral and ethical values through which individuals can relate courageously yet responsibly to the state.

As I mentioned previously, business corporations must and do necessarily express social responsibility beyond the goal of profits for shareholders. Business at one time intruded too heavily into the personal lives of its employees. With a swing of the pendulum business tried to bend over backwards not to influence its employees in political or religious or moral matters. Now business must get back into influencing its employees—to be good citizens. Just as the President of the United States must expand the base of citizen participation in public affairs, just so the corporation executive must expand the base of employee participation in corporate affairs.

Increasingly, businesses are institutionalizing employee input into the decision-making process in many areas—such concerns as employment conditions, retirement pensions and programs, but also in business operational goals, and more newly employee volunteer work, and support for worthy charities. Increasingly, they are seeking out opportunities for social service within the local and national communities. Some offer work-study opportunities or sponsor community-service programs, for young people still in high school or college. Others sponsor community-service opportunities for employees during their working years. A few are considering the merits of offering flexitime alternatives to full-time work for employees nearing the end of their company careers; in connection with the corporations general responsibility and helping make arrangements to phase its retirees into community service work, for those who are appalled at the prospect of closing out their active years "cold turkey." Many of these possibilities were explored by business leaders who attended a Wingspread Conference on "The Future of Employee Volunteering" last November.

These business initiatives and these citizen voluntary activities have an obvious tie-in with efforts the President might make to provide higher levels of citizenship participation in public affairs on a national scale. Community-service options for any citizen who wants to help solve a problem, even for men and women currently employed daily, and even more for those who are working part time, or not currently needing employment income, about to retire, can be geared toward revitalization of deteriorating urban neighborhoods and reversal of the process of urban decay.

City residents can and must play a major role in restoring economic and social vitality to distressed urban areas. That role might reasonably include participation in research on causes and effects of urban decay; and the planning of immediate and longer-term programs to reverse the process, but more likely personal involvement in the providing of essential services and the establishment and operation of self-help organizations in targeted neighborhoods, in logical extension of the citizenship participation principle.

The practice of real citizenship, responsible citizenship, involves three major facets. The one which everyone thinks of first is participation in the political process, i.e., voting in primaries as well as general elections, and preferably working for a candidate or candidates and a political organization or party. The second, which I have been emphasizing here today, is voluntary participation in solving the problems of one's community, state, and nation and making voluntary contributions of one's own time and energy to meet the needs of one's community and fellow citizens rather than leaving it all up to government to do. A third, which we have yet not touched on, and which I will not take your valuable time to elaborate on today because I think you already know it, is nevertheless every bit as important as the other two, and I want to remind you of it now and leave an emphasis on it with you before I bring these remarks to a close. It is living responsibly and ethically, complying with all proper laws and regulations, cooperating with the proper authorities in their legitimate performance of their duties, and observing those American traditions and customs which contribute to the quality of life of our nation, and perhaps most important, teaching and inspiring all those persons with whom we have influence to do likewise.

To really broaden the exercise of citizenship by all Americans, so that they properly embrace all three of those facets, will require a substantial educational effort.

Those of us who enjoy the advantages of a good education have a special responsibility to bring along those who do not. The job is developing good citizens—citizens who can cope with the complexities of the modern world, who respect themselves and care about others. That job is the responsibility of all of us. Let's hope for Presidential leadership that will show the way, clearly pointing out the opportunities for individual self-fulfillment through service to family, community and nation, urging us relentlessly to take advantage of those opportunities; and facilitating the process of developing effective functioning citizens in any way the federal government can do so. But let us never forget that first, last, and always, that the nation does not belong to the government or to the president. It is ours, and that what happens to it is really up to us.

What will you do?

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE FEDERAL PREVAILING RATE ADVISORY COMMITTEE—MESSAGE FROM THE PRESIDENT—PM 57

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with Section 5347(e) of Title 5 of the United States Code, I hereby transmit the 1980 Annual Report of the Federal Prevailing Rate Advisory Committee. The period covered by the report precedes my term of office.

RONALD REAGAN.

THE WHITE HOUSE, *June 3, 1981.*

MESSAGES FROM THE HOUSE

At 11:53 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House has passed the following bill, without amendment:

S. 1070. An act to extend the authorization for youth employment and demonstration programs, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 661. An act for the relief of Blanca Rosa Luna de Frei;

H.R. 688. An act for the relief of Junior Edmund Montcrieffe;

H.R. 783. An act for the relief of Roland Karl Heinz Vogel;

H.R. 1469. An act for the relief of Madeleine Mesnager;

H.R. 1480. An act for the relief of Omar Marachi;

H.R. 1550. An act for the relief of Aurora Isidra Rullan Diaz;

H.R. 2039. An act to amend chapter 37 of title 38, United States Code, to authorize the Administrator of Veterans' Affairs to guarantee home loans with provisions for variable-payment plans, and for other purposes;

H.R. 2136. An act to amend title 38, United States Code, to revise the provisions of such title relating to the construction and alteration of, and acquisition of land for, national cemeteries;

H.R. 2540. An act to authorize appropriations for the U.S. International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representatives for fiscal year 1982, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 76 Concurrent resolution expressing the sense of the Congress that the Secretary of the Army should place a plaque in Arlington National Cemetery honoring members of the U.S. Armed Forces who died during an attempt to rescue American hostages held in Iran.

At 4:52 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1100. An act to amend title 38, United States Code, to expand eligibility of former prisoners of war for certain benefits and health-care services provided by the Veterans' Administration, and for other purposes;

H.R. 1714. An act to amend title 38, United States Code, to authorize the Veterans' Administration to furnish memorial headstones or markers to commemorate veterans who by choice are buried at sea or who donate their bodies to science, and for other purposes;

H.R. 2156. An act to amend title 38, United States Code, to extend by 12 months the period during which funds appropriated for grants by the Veterans' Administration for the establishment and support of new State medical schools may be expended;

H.R. 2185. An act for the relief of Hanife-Frantz;

H.R. 3423. An act to amend title 38, United States Code, to provide vocational education and training opportunities for certain Vietnam-era veterans, to establish a small business loan program for Vietnam-era veterans and disabled veterans, and for other purposes; and

H.R. 3499. An act to amend title 38, United States Code, to extend the Vietnam-era veterans' readjustment counseling program, to provide medical care for Vietnam veterans exposed to herbicide defoliants (including agent orange), to recover the cost of certain health care provided by the Veterans' Administration, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read twice by unanimous consent, and referred as indicated:

H.R. 661. An act for the relief of Blanca Rosa Luna de Frei; to the Committee on the Judiciary.

H.R. 688. An act for the relief of Junior Edmund Montcrieffe; to the Committee on the Judiciary.

H.R. 783. An act for the relief of Roland Karl Heinz Vogel; to the Committee on the Judiciary.

H.R. 1469. An act for the relief of Madeleine Mesnager; to the Committee on the Judiciary.

H.R. 1480. An act for the relief of Omar Marachi; to the Committee on the Judiciary.

H.R. 1550. An act for the relief of Aurora Isidra Rullan Diaz; to the Committee on the Judiciary.

H.R. 1714. An act to amend title 38, United States Code, to authorize the Veterans' Administration to furnish memorial headstones or markers to commemorate veterans who by choice are buried at sea or who donate their bodies to science, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 2039. An act to amend chapter 37 of title 38, United States Code, to authorize the Administrator of Veterans' Affairs to guarantee home loans with provisions for variable-payment plans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 2136. An act to amend title 38, United States Code, to revise the provisions of such title relating to the construction and alteration of, and acquisition of land for, national cemeteries; to the Committee on Veterans' Affairs.

H.R. 2185. An act for the relief of Hanife-Frantz; to the Committe on the Judiciary.

H.R. 3423. An act to amend title 38, United States Code, to provide vocational education and training opportunities for certain Vietnam-era veterans, to establish a small business loan program for Vietnam-era veterans and disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

HOUSE BILLS PLACED ON CALENDAR

The following bills were read twice and ordered placed on the calendar:

H.R. 1100. An act to amend title 38, United States Code, to expand eligibility of former prisoners of war for certain benefits and health-care services provided by the Veterans' Administration, and for other purposes.

H.R. 2540. An act to authorize appropriations for the U.S. International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representatives for fiscal year 1982, and for other purposes.

H.R. 3499. An act to amend title 38, United States Code, to extend the Vietnam-era veterans' readjustment counseling program, to provide medical care for Vietnam veterans exposed to herbicide defoliants (including agent orange), to recover the cost of certain health care provided by the Veterans' Administration, and for other purposes.

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 76 Concurrent resolution expressing the sense of the Congress that the Secretary of the Army should place a plaque in Arlington National Cemetery honoring members of the U.S. Armed Forces who died during an attempt to rescue American hostages held in Iran; to the Committee on Veterans' Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1322. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Army's proposed letter of offer to Jordan for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–1323. A communication from the Secretary of the Navy, transmitting a draft of proposed legislation to authorize the Secretary of Defense to count as reductions, positions downgraded from GS–13 and above to GS–12 and below in complying with the requirements of section 811(a) (1) and (2) of the Department of Defense Appropriation Authorization Act, 1978, (Public Law 95–79, 91 Stat. 323); to the Committee on Armed Services.

EC–1324. A communication from the Secretary of Defense, transmitting a draft of proposed legislation to amend titles 10 and 5, United States Code, to increase the number of Assistant Secretaries in the Department of Defense and for other purposes; to the Committee on Armed Services.

EC–1325. A communication from the Secretary of the Air Force, transmitting, pursuant to law, his decision to withdraw active Air Force support activities at Hancock Feld,

N.Y., during fiscal year 1983; to the Committee on Armed Services.

EC–1326. A communication from the Assistant Secretary of State for Congressional Relations, transmitting, pursuant to law, a report on the President's decision to extend a credit to the Socialist Republic of Romania in connection with its purchase of two nuclear steam generators; to the Committee on Banking, Housing, and Urban Affairs.

EC–1327. A communication from the Vice President of the U.S. Synthetic Fuels Corporation, transmitting, pursuant to law, the quarterly report of the Corporation for the period January 1 through March 31, 1981; to the Committee on Energy and Natural Resources.

EC–1328. A communication from the Acting Assistant Legal Advisor for Treaty Affairs of the Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60-day period prior to May 28, 1981; to the Committee on Foreign Relations.

EC–1329. A communication from the Acting Inspector General of the Department of Health and Human Services, transmitting, pursuant to law, the report on the activities of the Office of Inspector General, Department of Health and Human Services, for the period January 1 through March 31, 1981; to the Committee on Governmental Affairs.

EC–1330. A communication from the Acting Administrator of the Veterans' Administration, transmitting, pursuant to law, the report of the Office of Inspector General, Veterans' Administration; to the Committee on Governmental Affairs.

EC–1331. A communication from the Acting Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report of the Office of Inspector General, NASA, for the period ending March 31, 1981; to the Committee on Governmental Affairs.

EC–1332. A communication from the Mayor of the District of Columbia, transmitting a draft of proposed legislation to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the National Capital service area; to the Committee on Governmental Affairs.

EC–1333. A communication from the Mayor of the District of Columbia, transmitting a draft of proposed legislation to authorize the transfer of the District of Columbia Employment Security Building to the Government of the District of Columbia; to the Committee on Governmental Affairs.

EC–1334. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the refugee resettlement program; to the Committee on the Judiciary.

EC–1335. A communication from the Acting Commissioner of Immigration and Naturalization, transmitting, pursuant to law, orders suspending deportation of certain aliens under section 244(a)(1) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC–1336. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "The Condition of Education"; to the Committee on Labor and Human Resources.

EC–1337. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Changes Needed To Deter Violations of Fair Labor Standards Act"; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–139. A petition from a citizen of Dallas, Tex., urging congressional cooperation with the efforts of the Reagan administration to strengthen the military power of the United States; to the Committee on Armed Services.

POM–140. A petition from a citizen of Plano, Tex., urging congressional cooperation with the efforts of the Reagan administration in strengthening the military power of the United States; to the Committee on Armed Services.

POM–141. A petition from a citizen of Plano, Tex., urging congressional cooperation with the efforts of the Reagan administration to strengthen the military power of the United States; to the Committee on Armed Services.

POM–142. A petition from a citizen of Plano, Tex., urging congressional cooperation with the efforts of the Reagan administration to strengthen the military power of the United States; to the Committee on Armed Services.

POM–143. A resolution adopted by the Berkley Rent Stabilization Board, opposing the vote of the Senate Banking Committee to restrict Federal housing subsidies to cities with local rent control laws; to the Committee on Banking, Housing, and Urban Affairs.

POM–144. Joint resolution adopted by the legislature of the State of Maine; to the Committee on Environment and Public Works:

"JOINT RESOLUTION

"We, your Memorialists, the Senate and House of Representatives of the State of Maine in the One Hundred and Tenth Legislature, now assembled, most respectfully present and petition the Honorable Ronald W. Reagan, President of the United States, as follows:

"Whereas, this body commends the efforts of the Administration and Congress to reduce inflationary pressures in the economy by recommending budget cuts as well as tax incentives for private capital investments; and

"Whereas, this body supports reductions of the various federal programs to achieve these objectives; however, there is great concern over the proposed elimination of future funding for the Economic Development Administration and the rescission of the remaining appropriations of fiscal year 1981 of the agency; and

"Whereas, the Public Works and Economic Development Act of 1965, by which the Economic Development Administration was established, has resulted in $131,684,993 being spent in Maine, amounting to 429 grants and loans; and

"Whereas, a large proportion of the EDA investment in Maine has been to those industries that have their basis in the state's natural resources—food processing facilities and forest product manufacturing or to assist declining industries such as textiles and shoes in some of the state's smaller towns and more isolated regions; and

"Whereas, investments in the private sector have created 8,570 permanent jobs and countless temporary jobs involved in the construction or expansion of industry in the State and local public works' projects have created over 25,000 temporary jobs and 17,050 permanent positions in the State; and

"Whereas, it has been our experience in Maine that the benefits from this program far outweigh the public cost whenever the increased economic activities resulting from investments have been thoroughly examined; and

"Whereas, over $25,000,000 worth of projects in Maine are pending funding at this time, $10,400,000 was being counted on for the development of 2 cargo ports and over $2,000,000 was anticipated for planning and technical assistance and for development of a statewide Revolving Loan Fund; and

"Whereas, included in the $25,000,000 are the fish piers for which the citizens of Maine have already approved a bond issue and only $2,000,000 of the anticipated $7,500,000 was received before the funding cut; and

"Whereas, projects with applications pending were notified by EDA that they should not expect to receive EDA assistance since fiscal year 1981 funds were sufficient to cover only those projects for which full approval had been given prior to the Administration's rescission proposal; now, therefore, be it

"*Resolved*, That we, your Memorialists, express our strong support for the Public Works Program of the Economic Development Administration and respectfully urge the Congress and the Honorable Ronald W. Reagan, President of the United States, to continue the funding of this program so as to permit the continued development of job-generating projects so necessary to the future well-being of this State and Nation; and be it further

"*Resolved*, That duly authenticated copies of this resolution be transmitted forthwith by the Secretary of State to the Honorable Ronald W. Reagan, President of the United States, the President of the Senate and Speaker of the House of Representatives of the United States Congress and to each member of the Maine Congressional Delegation."

POM–145. A resolution adopted by the Consulting Engineers Council of Texas, Inc., favoring the adoption of legislation relating to the development of needed energy and water resources projects; to the Committee on Environmental and Public Works.

POM–146. A resolution adopted by the House of Representatives of Puerto Rico; to the Committee on Governmental Affairs.

"RESOLUTION

"STATEMENT OF MOTIVES

"December 31, 1982, will mark the tenth anniversary of the disappearance of the renowned Puerto Rican sportsman, Roberto Clemente which occurred at the moment he was leaving his country to give a helping hand to the people of Nicaragua after it had suffered the effects of earthquakes which had left its capital city virtually in ruins.

"During his life, Roberto Clemente achieved goals within the sports world never before attained by a Puerto Rican, and only by a handful of other men in the sports world. Each day, his deeds exalted the name of Puerto Rico. During the off-season months, he returned to this island and shared his knowledge with the youth of Puerto Rico. He excelled as a father, upholding with his moral fiber, the unity of his family. In his life, Roberto set an example for Puerto Rico.

"When he disappeared more than eight years ago, the humanitarian phase of his personality remained in the minds of hundreds of millions of North Americans, Latin Americans and Puerto Ricans who mourned his death. He left his family and country on New Year's Eve, a night of great festivity, to accompany and deliver provisions collected in Puerto Rico for the people of Nicaragua.

"Normally, it is the birth of a person that is celebrated, not his death. Nevertheless, Clemente did not die alone; after a life full of great achievements Clemente did performing his greatest sacrifice and the most admirable of all his performances.

"It is proper that this humble, honest and humanistic son of the small town of Carolina be remembered with a commemorative stamp to be issued on December 31, 1982, in the city of Carolina that saw his birth and death.

"*Be it resolved by the House of Representatives of Puerto Rico:*

SECTION 1. To request, as it is hereby requested, that the United States Postal Service issue a postal commemorative stamp in homage to memory of the renowned Puerto Rican

sportsman, Roberto Clemente, on December 31, 1982, in the city of Carolina, Puerto Rico.

SEC. 2. To exhort all the civic, sports, and cultural organizations in Puerto Rico, as it is hereby exhorted, to make their opinion on such a significant matter known at the federal level.

"SEC. 3. A copy of this Resolution shall be sent to the Postmaster General of the United States, to the President of the United States, the Honorable Ronald Reagan; the Vice-President of the United States, the Honorable George Bush, the leaders of the Congress, and the Resident Commissioner of Puerto Rico, the Honorable Baltazar Corrado."

POM-147. A resolution adopted by the City Council of Waterford, Calif., expressing its support of efforts by the Federal Administration to return powers to local entities and urging a careful implementation of those efforts in ways that will enhance, not further impede, home rule; to the Committee on Governmental Affairs.

POM-148. A petition from a citizen of San Antonio, Tex., relating to the release of the indentity of intelligence agents; to the Select Committee on Intelligence.

POM-149. A resolution of the West Central Wardens and Superintendents Association, urging the development of funding programs to continue the upgrading of correctional service throughout the country; to the Committee on the Judiciary.

POM-150. A resolution adopted by the Southern Conference of Attorneys General, favoring increased drug enforcement efforts; to the Committee on the Judiciary.

POM-151. A resolution adopted by VFW Post 3803, Ville Platte Department of Louisiana, favoring the Reagan administration policies concerning veterans' hospitals and facilities; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 1033. A bill granting the consent of Congress to the agreement between the States of North Carolina and South Carolina establishing their lateral seaward boundary (Rept. No. 97-129).

By Mr. EAST (for Mr. THURMOND), from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 823. A bill to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes (Rept. No. 97-130).

By Mr. HATCH, from the Committee on Labor and Human Resources:

Report to accompany the bill (S. 1200) to authorize appropriations for the National Science Foundation for the fiscal year 1982 (Rept. No. 97-131).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. McCLURE, from the Committee on Energy and Natural Resources:

Charles M. Butler, III, of Maryland, to be a Member of the Federal Energy Regulatory Commission for the remainder of the term expiring October 20, 1983.

Georgiana H. Sheldon, of Virginia, to be a Member of the Federal Energy Regulatory Commission for a term expiring October 20, 1984.

(The above nominations, reported from the Committee on Energy and Natural Resources, with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXECUTIVE REPORTS OF COMMITTEES SUBMITTED DURING THE RECESS

The following executive reports of committees were submitted after the recess of the Senate on June 3, 1981, under authority of the order of the Senate of that date:

By Mr. THURMOND, from the Committee on Armed Services:

Tidal W. McCoy, of Virginia, to be an Assistant Secretary of the Air Force, vice Joseph Charles Zengerle III, resigned.

Joel E. Bonner, Jr., of Virginia, to be an Assistant Secretary of the Army, vice Alan J. Gibbs.

William R. Gianelli, of California, to be an Assistant Secretary of the Army, vice Michael Blumenfeld, resigned.

Harry N. Walters, of New York, to be an Assistant Secretary of the Army, vice William Eldred Peacock, resigned.

Mr. THURMOND. Mr. President, from the Committee on Armed Services, I report favorably the following nominations: Gen. Robert E. Huyser, U.S. Air Force (age 56), for appointment to the grade of general on the retired list; Lt. Gen. Hans H. Driessnack, U.S. Air Force, for appointment as senior U.S. Air Force member of the Military Staff Committee of the United Nations; Maj. Gen. William J. Livsey, Jr., U.S. Army, to be lieutenant general; Maj. Gen. Harold A. Hatch, U.S. Marine Corps, to be lieutenant general; Lt. Gen. Freddie L. Poston, U.S. Air Force (age 55), for appointment to the grade of lieutenant general on the retired list; Lt. Gen. Stanley M. Umstead, Jr., U.S. Air Force (age 52), for appointment to the grade of lieutenant general on the retired list; Lt. Gen. Richard L. West, Army of the United States (major general, U.S. Army) (age 56), to be placed on the retired list in the grade of lieutenant general; Maj. Gen. Ernest D. Peixotto, U.S. Army to be lieutenant general; Vice Adm. William N. Small, U.S. Navy, for appointment as Vice Chief of Naval Operations to the grade of admiral while so serving; Adm. Donald C. Davis, U.S. Navy (age 60), for appointment to the grade of admiral on the retired list; Rear Adm. Robert L. Walters, U.S. Navy, to be vice admiral; Maj. Gen. John K. Davis, U.S. Marine Corps, to be lieutenant general; and Lt. Gen. Charles M. Hall, Army of the United States (major general, U.S. Army) (age 56), to be placed on the retired list in the grade of lieutenant general. I ask that these names be placed on the Executive Calendar.

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

Mr. THURMOND. In addition, in the U.S. Navy and Naval Reserve, there are 284 temporary/permanent promotions to the grade of captain and below (list begins with Latimer T. Albert); in the Navy and Naval Reserve, there are 11 temporary/permanent appointments to the grade of captain and below (list begins with Kenneth J. Anderson); in the U.S. Navy Reserve there are 1,419 temporary promotions to the grade of captain and below (list begins with Reinaldo G. Alvarez); and in the Regular Air Force there are 490 appointments to the grade of major and below (list begins with George W. Berger). Since these names have already appeared in the RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of May 11, May 19, and May 20, 1981, at the end of the Senate proceedings.)

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. 1308. A bill to insure the confidentiality of information used by the Internal Revenue Service to develop standards for the examination or other investigation of returns under the Internal Revenue Code of 1954; to the Committee on Finance.

By Mr. GOLDWATER (for himself and Mr. JACKSON) (by request):

S. 1309. A bill for the relief of the estate of Dorothy Meserve Kunhardt; to the Committee on the Judiciary.

By Mr. BOSCHWITZ (for himself, Mr. CHAFEE, Mr. BURDICK, Mr. GORTON, Mr. HATCH, Mr. HAYAKAWA, Mr. HUMPHREY, Mr. JEPSEN, Mr. PERCY, Mr. TOWER, Mr. QUAYLE, Mr. ARMSTRONG, and Mr. KASTEN):

S. 1310. A bill to amend the Internal Revenue Code of 1954 to provide certain community development, employment, and tax incentives for individuals and businesses in depressed areas; to the Committee on Finance.

By Mr. SIMPSON (by request):

S. 1311. A bill to amend chapter 19 of title 38, United States Code, to permit the unrestricted assignment of a beneficiary's interest in the proceeds of a Government Life Insurance policy in cases involving contested claims, and to increase the amount an attorney may receive for representing a claimant in such cases, and for other purposes; to the Committee on Veterans' Affairs.

S. 1312. A bill to amend title 38, United States Code, to make adjustments and improvements in the vocational rehabilitation and education programs administered by the Veterans' Administration, and for other purposes; to the Committee on Veterans' Affairs.

S. 1313. A bill to amend title 38, United States Code, to provide additional flexibility within the Veterans' Administration's existing medical personnel management system; to the Committee on Veterans Affairs.

S. 1314. A bill to amend title 38, United States Code, to authorize funds to the Republic of the Philippines to assure the effective case and treatment of patients in the Veterans Memorial Medical Center; to the Committee on Veterans Affairs.

By Mr. SIMPSON:

S. 1315. A bill to amend title 38, United States Code, to provide that the pension of a veteran who is blind as a result of a non-service-connected disability and who is being furnished hospital care by the Veterans' Administration in a Veterans' Administration center operated exclusively for the rehabilitation of blinded veterans shall not be reduced because the period of care of such veteran extends more than three months; to the Committee on Veterans Affairs.

S. 1316. A bill to amend chapter 37 of title

38, United States Code, to authorize the Administrator of Veterans' Affairs to guarantee home loans with provisions for graduated-payment plans, and for other purposes; to the Committee on Veterans Affairs.

S. 1317. A bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a veteran after age 62 shall not result in termination of dependency and indemnity compensation; to the Committee on Veterans Affairs.

By Mr. RIEGLE (for himself, Mr. LEVIN, and Mr. HATFIELD):

S. 1318. A bill to amend the Internal Revenue Code of 1954 with respect to State or local government obligations issued to finance certain beverage container facilities the construction of which is made necessary by an antidisposable beverage container law; to the Committee on Finance.

By Mr. BRADLEY:

S. 1319. A bill to amend the Internal Revenue Code of 1954 to provide for individual and corporate income tax reductions, and for other purposes; to the Committee on Finance.

By Mr. HEINZ:

S. 1320. A bill to amend the Internal Revenue Code of 1954 to modify the excise tax on trucks, buses, tractors, etc., and for other purposes; to the Committee on Finance.

By Mr. COCHRAN:

S. 1321. A bill to provide access to small businesses and other persons, of information concerning rules applicable to such businesses or persons; to the Committee on the Judiciary.

By Mr. COCHRAN (for himself and Mr. STENNIS):

S. 1322. A bill to designate the United States Department of Agriculture Boll Weevil Research Laboratory building, located on the campus of Mississippi State University, Starkville, Mississippi, as the "Robey Wentworth Harned Laboratory"; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. TSONGAS (for himself and Mr. KENNEDY):

S. 1323. A bill to amend the Internal Revenue Code of 1954 with respect to the residential energy and investment tax energy credits, and for other purposes; to the Committee on Finance.

By Mr. PERCY:

S.J. Res. 86. Joint resolution authorizing the President to proclaim the month of November, 1981 as "National REACT Month"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (by request):

S. 1308. A bill to insure the confidentiality of information used by the Internal Revenue Service to develop standards for the examination or other investigation of returns under the Internal Revenue Code of 1954; to the Committee on Finance.

CONFIDENTIALITY OF TAXPAYER COMPLIANCE INFORMATION

● Mr. DOLE. Mr. President, today I am introducing legislation, at the request of the administration, to clarify the intent of Congress that the Internal Revenue Service's data base for its taxpayer compliance measurement program (TCMP) cannot be disclosed to private persons under the restrictions of section 6103 of the Internal Revenue Code.

TCMP SYSTEM

Under present Internal Revenue Service (IRS) procedures, most individual income tax returns selected for examination are picked on the basis of a scoring system. The development of variables used to arrive at the scores begins with carefully controlled audits pursuant to an audit program called the taxpayer compliance measurement program (or TCMP). This program is intended to serve the basic purposes of the Internal Revenue Service's general audit program, which involves approximately 2 million returns.

COURT DECISIONS PERMIT DISCLOSURE

Recent court decisions brought under the Freedom of Information Act have awarded plaintiff's access to these TCMP source materials with the deletion of all characteristics which would be used to identify particular taxpayers. In reaching their conclusions, the courts point to section 6103(b)(2) of the Internal Revenue Code (code) which excludes from the definition of protected return information "data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer." The courts construe the exclusion as compelling the editing and disclosure of return information.

DISCLOSURE UNWARRANTED AND HARMFUL TO IRS AUDIT PROGRAM

Neither the Freedom of Information Act nor the exclusion was intended to permit public disclosure of information which would seriously compromise the integrity of the self-assessment system of taxation. Maintaining the confidentiality of such information far outweighs any legitimate public interest in its disclosure or any benefit to be derived from disclosure. Furthermore, the purpose of the exclusion was to continue public access to anonymous statistical studies and compilations prepared for tax administration purposes and to require editing under the Freedom of Information Act only when the IRS adds identifiers to previously disclosable studies. The exclusion was not meant to compel the preparation of edited materials for public distribution upon demand.

If the TCMP source data are released, the IRS would be faced with the problem of developing an alternative audit selection system. The resulting costs to the IRS, both in terms of the resources needed to accomplish this task and the potential loss of tax revenues due to the use of a less effective audit selection system, would be immeasurable.

DISCLOSE ANONYMOUS DATA UNLESS DISCLOSURE IMPAIRS TAX ADMINISTRATION

This bill would amend the definition of return to include within the definition any data—whether or not identifiable—from which standards or other criteria or procedures can be derived for the selection of returns for examination or other investigation the disclosure of which the Service determines would seriously impair Federal tax administration. This addition is specifically intended to permit protection of the TCMP data base dealt with in the court cases. It would thus authorize disclosure of anonymous statistical tabulations based on the TCMP which the Service prepares for tax administration purposes the disclosure of which would not seriously impair Federal tax administration.

Although this addition to section 6103(b)(2) clarifies that the TCMP data base constitutes protected return information subject to disclosure only as provided by section 6103, its continued confidential use by the IRS is assured since other persons entitled to receive return information under the various provisions of that section would be unable to justify access to the information for the statutory purposes for which such access is authorized or required.

This legislation will prevent the adverse consequences to the tax system which disclosure of the data base would cause. The administration supports this bill and urges immediate consideration by the Congress.●

By Mr. BOSCHWITZ (for himself, Mr. CHAFEE, Mr. BURDICK, Mr. GORTON, Mr. HATCH, Mr. HAYAKAWA, Mr. HUMPHREY, Mr. JEPSEN, Mr. PERCY, Mr. TOWER, Mr. QUAYLE, Mr. ARMSTRONG and Mr. KASTEN):

S. 1310. A bill to amend the Internal Revenue Code of 1954 to provide certain community development, employment, and tax incentives for individuals and businesses in depressed areas; to the Committee on Finance.

URBAN JOBS AND ENTERPRISE ZONE ACT OF 1981

Mr. BOSCHWITZ. Mr. President, on behalf of Senator CHAFEE and myself, I am introducing today the "Urban Jobs and Enterprise Zone Act of 1981." This legislation, which has been the subject of much debate and discussion over the past year, was first introduced in the 96th Congress. And today, after having consulted with the vast majority of the leading urban organizations around the country, as well as many of our cities' mayors and businesses, we are reintroducing an amended version of this proposal which we feel will be far more effective in the task of creating jobs in our Nation's inner cities. Simultaneously today, an identical bill is also being introduced in the House of Representatives by Congressmen KEMP and GARCIA.

When this proposal was first introduced in the 96th Congress, Mr. President, the enthusiastic response was very gratifying. Mayors from all over the country wrote indicating support and offering their suggestions and recommendations, a number of which have been incorporated in this new bill that we are introducing today. Of course, not all agreed with each and every provision of the legislation, but all eagerly welcomed a fresh, new, and innovative approach to resolving the problems of poverty and joblessness in inner-city America.

After investing scores of billions of dollars in the so-called war on poverty over the last two decades, we have failed to provide any meaningful opportunity for advancement—an opportunity to get a foot up the ladder of success, so to speak. While our welfare programs provide crucial services, they, unfortunately, have created a system of dependency which has helped trap many of our poor in a self-perpetuating cycle of poverty. The Urban Jobs and Enterprise Zone Act attempts to break that cycle by offering a more lasting and rewarding alternative to welfare dependency—a job, and a job in the private sector, which will mean personal, economic, and societal growth.

The focus of this year's urban jobs legislation is the same as last year's: Small business development and job creation in the most distressed areas of our urban centers as well as depressed rural areas. The means to reach that end have changed somewhat, but the overall goal is still the same: job creation.

Those areas which HUD designates as enterprise zones based upon the severity of their economic distress will qualify for a package of benefits designed to lure job-creating businesses into the inner city. Any business that is willing to take the risk of locating in one of these zones and who will pledge to hire at least 40 percent of its workers from the unemployed labor force, will qualify for a lucrative series of Federal tax incentives.

By simply locating in the zone itself business will qualify for some of the incentives, but by employing at least 40 percent of the workers from the unemployed labor force, additional incentives will be available. And workers who take jobs in those zones will receive a 5 percent break on their personal income taxes up to $1,500 a year.

In keeping with last year's bill, this legislation is directed at small businesses. They create the vast majority of new jobs. In the past 10 years, nearly 20 percent of new private sector employment has come from businesses with 20 or fewer employees and 80 percent of new jobs have been created by businesses with less than 100 employees.

The source of that is a study, Mr. President, done by David Birch of the Massachusetts Institute of Technology.

Another advantage of small businesses, as compared to corporations, is the increased opportunity for rapid advancement. A person working in a small business has a one-to-one relationship with the boss, something that is not often the case in larger businesses. Too often, people at the lower end of the wage scale get lost in the shuffle of big business. However, from my own experience, I just do not think this is as prevalent in small businesses. The employer and employee identify more with one another. A person's qualities, problems, family, and ambitions cannot escape the boss' notice, and seldom do.

Furthermore, working in a small business is stimulating and exciting. Getting in on the ground floor of a new business, particularly a small business, allows you to see all the wheels turning at once before you. It offers a very effective method for advancement and a means to learn how businesses work so that eventually you'll be able to go into business yourself.

If people are going to maximize their efforts and abilities, there must be potential for them to rise above low-skilled minimum wage jobs—to see an opportunity to advance within a business. The urban jobs bill offers that potential.

As I have previously mentioned, the focus and concept of this legislation remains unchanged; however, we have developed a list of new incentives that will make these enterprise zones more attractive to businesses. After consulting with dozens of urban organizations, we concluded that the incentives needed to be strengthened to overcome the drawbacks of locating in an inner city.

The problems of crime, weak infrastructure support, city taxes, et cetera, remain a barrier to business development in these areas. Business already encounters the usual problems of tax burdens and a lack of startup capital and technical expertise; but when these are combined with the disadvantages of locating in a distressed area, businesses are hit with a double whammy, so to speak. Thus, our task is not only to make it attractive for entrepreneurs to invest in risk-taking ventures, but also to invest in new businesses that are located within the inner cities.

We have tackled this problem by combining a package of Federal and local incentives. Those cities that have UDAG eligible areas and can also show signs of high unemployment, poverty, out-migration, or abandonment of buildings, can apply to HUD for zone designation.

However, to receive designation, these cities will have to compete among one another on the basis of the severity of their economic distress plus their "local commitment." The cities, States, counties, and other municipal-type governments are encouraged to work together to construct a State and local package of incentives. Cities will then compete with other cities for zone designation on the basis of who can offer the most attractive package.

So, not only must cities qualify on the basis of their economic distress, but there has to be a local, State and county package of various types of incentives—property or income tax relief, relaxation of building codes, increased infrastructure support, et cetera—to augment the Federal package of tax incentives, that is, elimination of capital gains taxes, a 50-percent reduction in income taxes, a 5-percent refundable tax credit for wages paid to previously unemployed workers, et cetera. This local-Federal package addresses the problems that all small businesses face, as well as the particular problems of a business who has located in an inner city.

For the workers, there are also tax incentives. Instead of providing a break in the employee's social security taxes, this year's bill provides a refundable tax credit of up to $1,500 a year for all workers who are employed in the zone by a business with at least 40 percent CETA-eligible employees. That is quite a hefty supplement to their annual wages and an enormous advantage to the employee who chooses to work in one of these businesses.

In closing, Mr. President, I would like to say that as a small businessman myself, I think this legislation offers a very attractive package of incentives which will be successful in stimulating business development. It has always been my contribution to the formation of this bill, to look at it as a businessman and to decide what would entice me into a distressed area.

I think we have put together such a package and I am pleased to say that it has gained widespread support of both the Republican and Democratic Members in Congress. In addition, at our press conference today, Vernon Jordan, president of the National Urban League, wholeheartedly endorsed this legislation and urged that all Members of Congress—despite their party or ideological commitments—rally behind this proposal and see that it is enacted in the 97th Congress.

Mr. President, I have one last point that is worthy of mention. I want to make clear that outside of HUD's role as designator of the zones, the involvement of the Federal Government in this legislation is rather slight. We are not creating a vast new program that is going to cost the Federal Government billions of dollars. This is a program of private investment. This is a program of giving tax concessions to businesses to come into distressed areas so that they will put people back to work, put them on payroll and get them paying taxes. This is not a new form of a welfare program. We are simply trying to utilize the great free enterprise system to put people back to work and to revitalize inner city America.

Mr. BURDICK. Mr. President, will the Senator yield?

Mr. BOSCHWITZ. I yield to the Senator from North Dakota.

Mr. BURDICK. I would like to say to my friend from Minnesota that he is making a very important speech today. I am intrigued with his idea and I will certainly review it very carefully.

One question I have is, Who would administer this program?

Mr. BOSCHWITZ. Mr. President, in answer to the Senator's question there is no real administration. After HUD makes the choice of an area as an enterprise job zone, there really is no administration beyond that. I suppose HUD would have some oversight and see whether or not that particular zone is attracting business.

As a matter of fact, my good friend from North Dakota asks an interesting question that I would like to answer in two parts.

First of all, I know my friend is from a very rural State. It borders my State. Much of my State is rural. We have changed this bill from last year's model, so to speak, to include rural areas, areas that have 250,000 population or more, so that a county in his State or my State, virtually any county, would qualify.

Then they go to HUD and ask to be designated an enterprise zone. They are in competition with, presumably, hundreds of other counties and areas that also want to be designated an enterprise zone. The bill says that not more than 25 will be designated in a given year. So that community which comes with the best package of tax benefits to be combined with the Federal tax benefits when that community is chosen as an enterprise zone is the community that will be chosen.

Furthermore, if that community comes and says, "If we are designated an enterprise zone and give this tax package, plus the tax package that you, the Federal Government, will give, this employer, that employer, a series of employers have indicated or have signed contracts that they will locate there," that will certainly give great credibility and enhance the strength of that particular area to be designated an enterprise zone.

Mr. BURDICK. Let me ask my friend,

has he estimated what the tax loss might be to the Federal Government and to the various States?

Mr. BOSCHWITZ. Mr. President, the Senator from North Dakota asks a good question, as to what the tax loss would be.

It is very hard to judge that. Most of these areas are producing no taxes at the present time. Most of the employees, at least 40 percent of the employees, would be unemployed and, as a result, would be removed from the welfare rolls and become taxpayers instead. Because of that, we feel that the impact on revenues will not be great.

I might say that the Reagan administration has endorsed the concept and hopes that a bill of this nature will be passed in this Congress. That, perhaps, is an indication that there will not be too great a revenue loss.

Mr. BURDICK. I commend the Senator from Minnesota for this approach. It is certainly worth delving into.

Mr. BOSCHWITZ. I thank the Senator from North Dakota.

Mr. President, I ask unanimous consent that a fact sheet on the Urban Jobs Enterprise Zone Act, be printed in the RECORD.

There being no objection, the fact sheet was ordered printed in the RECORD, as follows:

FACT SHEET, URBAN JOBS ENTERPRISE ZONE ACT

A. AREA REQUIREMENTS

1. Area's population must be at least 4,000 if located within Standard Metropolitan Statistical Area of at least 50,000; area population must be 2,500 for other areas. Indian reservations are exempt from the population requirements.

2. Area must be UDAG (including pockets-of-poverty) eligible.

3. Area must meet one of the following criteria:

a. unemployment over last 18 months was at least 1½ times the national average;

b. was a low-income poverty area as determined by most recent census;

c. 70 percent of residents have income below 80 percent of the area median income.

d. population decline of at least 10 percent between 1970 and 1980 and either chronic abandonment of buildings or substantial tax arrearages.

4. Must submit a plan to HUD detailing local efforts to reduce various burdens borne by employers and employees.

B. DESIGNATION BY HUD

1. 10 to 25 zones per year.

2. Preference will be given to areas showing the greatest distress, which have the greatest community support and which submit the best plans (including economic incentives given by state, county and local governments).

C. BENEFITS AVAILABLE TO BUSINESS AND INVESTORS IN IT

1. 5 percent refundable tax credit for wages paid to CETA—eligible (Title II B or D, or Title IV A or B) employees who work in zone.

2. Elimination of the capital gains tax for all the new businesses and investors in them.

3. A package of local tax benefits as designed by each area when they bid to get Enterprise Zone designation.

D. ADDITIONAL BENEFITS AVAILABLE TO THOSE BUSINESSES WITH AT LEAST 40 PERCENT CETA-ELIGIBLE EMPLOYEES

1. Elimination of income tax on half of all income earned from operations within the zone or interest on loans to zone businesses.

2. May use cash accounting if receipts are less than $2 million per year.

3. Extension of loss carryover to 20 years.

E. BENEFITS AVAILABLE TO EMPLOYEES

1. If employed in the zone by a busines with at least 40 percent CETA-eligible employees, a 5 percent refundable tax credit for wages earned, up to a $1,500 credit per year.

● Mr. QUAYLE. Mr. President, I am pleased to join today with my colleagues, Senators BOSCHWITZ and CHAFEE in sponsoring a bill to establish free enterprise zones within some of our Nation's most economically depressed and blighted areas. While creation of these enterprise zones will not be a panacea for our urban ills, the use of incentives to promote new private enterprise and entrepreneurship in economically depressed regions is an idea whose time has come.

As chairman of the Subcommittee on Employment and Productivity, I will work to coordinate programs in our jurisdiction with this innovative proposal of tax incentives and tax reform. Several key elements of this new idea must be kept in mind: The goal is to create new business in the zones, not to foster development in these neighborhoods at the expense of other neighborhoods. The enterprise zone regulations must be simple, the essential concept is to make it easy for people to enter business. Any policy aiming to revive these depressed areas must emphasize small business and entrepreneurship, and not larger well-established operations. Finally, this bill is a bold new experiment, and as such provides for not more than 25 enterprise zones to be created each year for a 3-year period.

The legislation which I join in sponsoring has several features which must be noted. Small businesses established within an enterprise zone will automatically fall under the Regulatory Flexibility Act, providing substantial relief from the Federal regulations.

Further, our States and local governments have long awaited the kind of Federal tax incentives for depressed areas which this bill will provide. The Governor of Indiana recently signed into law legislation which will create an Enterprise Zone Commission. That commission will identify certain local taxes, rules and regulations to be made exempt in designated enterprise zones. With the passage of this Urban Jobs and Enterprise Zone Act, which I cosponsor today, we can begin to coordinate a truly unique approach to promoting free enterprise, revitalizing our urban centers, and creating jobs.●

● Mr. CHAFEE. Mr. President, the Urban Jobs and Enterprise Zone Act of 1981 offers our Nation's most distressed cities and towns an opportunity for economic rebirth.

Let me emphasize the concept of opportunity because it is just that. It is not the answer; it is not the miracle cure; it is not a massive, new spending program masquerading as salvation from Washington, D.C.

The enterprise zone idea and the support it has from President Reagan signal a new direction in American urban policy. It is founded on our belief that job creation in declining urban and rural areas can only be achieved by removing obstacles to economic growth and providing long-term incentives for people to live and work in these places.

It is time for our Federal Government to give up trying to prescribe solutions for the vast array of local economic problems in this Nation and, instead, offer a richer opportunity for local authorities to foster new jobs and entrepreneurial growth from the ground up.

This is the goal of the Urban Jobs and Enterprise Zone Act of 1981, which I am pleased to be reintroducing today. Having worked on this legislation for more than a year with Senator BOSCHWITZ, Congressman KEMP, and Congressman GARCIA, I believe we have made significant improvements over the original 1980 draft of the bill. We have also had the input and support of dozens of economic development experts from around the United States in producing this new bill. In particular, I want to express my appreciation for the help my staff and I have received in this effort from many concerned Rhode Islanders.

The act we propose today allows between 10 and 25 zones to be established in each of the next 3 years. Applications for zone designation will be considered from areas which meet tests of high unemployment and widespread poverty, and show a strong commitment on the part of local business, government and civic leaders to work together to enhance economic opportunities for people who live or work there. The Department of Housing and Urban Development (HUD) will be the administering agency.

The primary benefits under the Enterprise Zone Act are Federal tax reductions designed to increase new jobs and business investment in zone areas. These tax breaks will increase the rate of return on productive economic activity, helping to overcome the high costs associated with locating in distressed areas. Such costs might include training an unskilled workforce, protecting against crime and vandalism, and compensating for poor city services.

Zone employers will be given a 5 percent refundable tax credit for wages paid to CETA-eligible employees, that is, people who are considered long-term unemployed from economically disadvantaged families. The capital gains tax will also be eliminated on all new zone investments.

For zone businesses hiring at least 40 percent CETA-eligible workers, there are additional tax incentives. Income tax on half their profits will be eliminated. And, for those who lend capital to such zone enterprises, taxes will be eliminated on half the income from their loans.

For all workers in businesses with at least 40 percent CETA-eligible employees, there is a 5 percent refundable tax credit for wages earned, up to a $1,500 credit per year. This relief is provided in view of the fact that, in many cases, leaving welfare rolls also means leaving behind tax-free income and health benefits which can far exceed minimum or low wage salaries.

The act also recognizes that some Federal programs enacted in past years have been useful tools in economic develop-

ment projects. Therefore, special consideration will be given to applications from zone areas for assistance under programs such as the Urban Development Action Grant (UDAG), section 8 low-income housing, and CETA private sector job training.

I believe this legislation offers a fresh and effective approach to the perplexing problems of economic decline—an approach that can be used in the South Bronxes and South Providences of our Nation, as well as in depressed rural areas.

I will be conducting the first congressional hearings on the Urban Jobs and Enterprise Zone Act next month, on July 13 and 16, and I urge all my colleagues to support its enactment during this Congress.●

By Mr. SIMPSON (by request):

S. 1311. A bill to amend chapter 19 of title 38, United States Code, to permit the unrestricted assignment of a beneficiary's interest in the proceeds of a Government Life Insurance policy in cases involving contested claims, and to increase the amount an attorney may receive for representing a claimant in such cases, and for other purposes; to the Committee on Veterans' Affairs.

S. 1312. A bill to amend title 38, United States Code, to make adjustments and improvements in the vocational rehabilitation and education programs administered by the Veterans' Administration, and for other purposes; to the Committee on Veterans' Affairs.

S. 1313. A bill to amend title 38, United States Code, to provide additional flexibility within the Veterans' Administration's existing medical personnel management system; to the Committee on Veterans' Affairs.

S. 1314. A bill to amend title 38, United States Code, to authorize funds to the Republic of the Philippines to assure the effective case and treatment of patients in the Veterans Memorial Medical Center; to the Committee on Veterans' Affairs.

By Mr. SIMPSON:

S. 1315. A bill to amend title 38, United States Code, to provide that the pension of a veteran who is blind as a result of a non-service-connected disability and who is being furnished hospital care by the Veterans' Administration in a Veterans' Administration center operated exclusively for the rehabilitation of blinded veterans shall not be reduced because the period of care of such veteran extends more than 3 months; to the Committee on Veterans' Affairs.

S. 1316. A bill to amend chapter 37 of title 38, United States Code, to authorize the Administrator of Veterans' Affairs to guarantee home loans with provisions for graduated-payment plans, and for other purposes; to the Committee on Veterans' Affairs.

S. 1317. A bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a veteran after age 62 shall not result in termination of dependency and indemnity compensation; to the Committee on Veterans' Affairs.

(The remarks of Mr. SIMPSON on this legislation appear earlier in today's RECORD.)

By Mr. BRADLEY:

S. 1319. A bill to amend the Internal Revenue Code of 1954 to provide for individual and corporate income tax reductions, and for other purposes; to the Committee on Finance.

TAX REDUCTION ACT OF 1981

Mr. BRADLEY. Mr. President, the bill I am introducing today offers a sorely needed alternative to the administration's tax proposal. Economists, investors, businessmen, academics, and Congressmen warn that the administration's tax bill will not put America on a course of sustained economic recovery, but will fuel inflation and force the Federal Reserve to slam on the monetary brakes. That is a formula for soaring interest rates, protracted recession, and unacceptable levels of unemployment.

My bill will correct some of the more glaring flaws and inefficiencies in the administration's proposals. It provides tax cuts to accelerate economic recovery, reduces inequities in the tax system, and increases incentives for work, saving and productive investment. The bill will reduce taxes by about $4.2 billion in fiscal year 1981 and $14.9 billion in calendar year 1981. In fiscal year 1982, the bill will cut taxes by about $35.6 billion and in calendar year 1982 by $48.8 billion. Over 40 percent of these tax cuts are specifically designed to stimulate savings, investment and productivity. The rest will offset the individual income and payroll tax increases. That will occur this year and next.

The President is promising that his tax bill will cure inflation, put Americans back to work, and cause a surge in their productivity to boot.

To achieve this outcome, the administration's tax package would have to induce a supply side miracle inspired by a radical, abrupt, yet sustained, increase in America's productivity growth. Actual experience teaches us that is highly unlikely. For the last 16 years, our productivity has grown at rates well below the high levels assumed by the administration. For the last 3 years, its growth has been negative.

Sustaining high productivity not only will require more investment in plant and equipment, but a more highly skilled labor force and changes in American management practices as well. None of these can occur quickly. It takes 5 to 10 years to build major new industrial facilities. Thus, even the new investment that the administration's tax bill is supposed to generate will not be contributing to productivity for a number of years.

Given the odds against a supply side miracle, it would be irresponsible for us to count on one in setting our Nation's economic policies. We must therefore modify the administration's tax proposals so that their inflationary thrust does not jeopardize our prospects for a robust economic recovery.

First, we must insure that any personal tax cuts offset inflation-induced tax increases and rising payroll taxes. The 10-percent uniform rate cut the President is advocating simply does not do this. Bracket creep and social security taxes impose a disproportionately heavy burden on middle- and low-income groups. Yet 10–10–10 delivers the bulk of its tax cuts to upper bracket taxpayers.

Second, we need a tax cut that, unlike the President's does not leave dramatically increased savings to chance. In 1980, the average American family saved 5.7 percent of its income. In the first 5 years of the 1960's there was essentially no inflation, rapid productivity growth, and great optimism. How much did the average American family save then? Six percent of its income.

To put that in perspective, remember that 6-percent savings rate includes the savings of high-income groups and involuntary savings such as contributions to pension plans. The median family does not save 6 percent of its income, and voluntary savings is much less than 6 percent. Moreover, it is not necessarily true that the high income individuals who are the prime beneficiaries of 10–10–10 will at the margin save more than middle-income individuals. On average they certainly save more, but they need not save more out of extra income. The high-income family might use a tax cut to buy a second home because they have enough put away for retirement. A middle-income family might save its tax cut because it is worried about how to survive during old age. Unfortunately, we just do not have much information on what marginal, as opposed to average, savings rates look like as one goes up the income scale.

But it seems clear that, at best 10–10–10 is unlikely to increase savings by more than 6 cents on the dollar. That will not give us the extra investment we need to restore productivity growth or to successfully challenge our international competitors. As a result of the baby boom, more workers for relatively the same equipment we would have to raise investment from 11 percent to between 13 percent and 14 percent of the GNP just to hold the amount of capital per worker constant. To keep up with the Japanese and Germans in terms of capital per worker, we would have to invest over twice that amount.

Beyond that, as long as we are running a deficit, each dollar that goes to reduce taxes will raise that deficit by much more than it will increase private savings. A dollar cut in taxes is a dollar less in revenue while a dollar less in taxes is historically 6 cents more in savings. For this reason, 10–10–10 will shrink, not swell, the domestic resources available for investment. Like apes on a treadmill, we will end up nowhere, while the shadow of our dwindling prosperity looms ever larger; 10–5–3, which is supposed to stimulate business investment, is equally inefficient and poorly targeted.

It will offer huge benefits to some firms, particularly the large capital-intensive ones, and very little to others. It will make investment particularly profitable where firms can borrow heavily, so that the combination of initial tax savings from rapid depreciation and the investment tax credit, high interest deductions and low equity will be a boon to tax shelter investment. It also will provide huge breaks for investments in office buildings and shopping centers. They last far longer than the 10 years in which they could be depreciated under the President's bill, and they also can be sold and written off many times. But we are most in need of industrial factories full

of equipment, not office buildings and shopping centers. And we need to boost innovation which, in turn, means much more investment in research and development. Yet 10–5–3 will discourage investment in the very industries we want to promote. If 10–5–3 is adopted, the tremendous incentive it provides for speculative building and tax shelters may very well end up sucking investment funds out of industry. That would mean less investment in industrial facilities and R. & D. after 10–5–3 is enacted than before.

My bill avoids these pitfalls. Its principal provisions are:

A reduction in rates for low- and middle-income taxpayers. The bottom rate would be reduced from 14 percent to 12 percent and all other rates would be lowered to help offset mounting social security taxes and inflation-induced income tax increases.

An increase in the personal exemption from $1,000 to $1,100 to benefit low- and middle-income taxpayers. This increase includes both the exemptions which taxpayers may claim for themselves and their dependents and the extra exemptions for the blind and the elderly.

An increase in the zero bracket amount (formerly the standard deduction) from $2,300 to $2,400 for single persons and from $3,400 to $3,600 for married couples who file joint returns. This also benefits low- and middle-income taxpayers.

An increase in the earned income credit for low-income taxpayers from 10 percent of the first $5,000 to 11 percent and an extension of the income ceiling from $10,000 to $11,000.

Easing of the burden on married couples with two incomes who pay much higher taxes than they would if they were single. This would be achieved by a new deduction of 10 percent or up to $4,000 of the earnings of the spouse with the lower income. This deduction would substantially lower the marriage penalty, enhance the equity of the tax system, and reduce the disincentives to work which result from the high tax rates applicable to the second earner's income.

Reduction of the top rate on investment income from 70 to 50 percent, phased in by 1982. This would eliminate the distinction between unearned income and provide substantial incentives for savings and investment.

Higher utilization of provisions for individual retirement savings by increasing the deduction for contributions to individual retirement accounts (IRA's) from $1,500 to $2,000; increasing the deduction for contributions to qualified pension plans from $7,500 to $15,000; and providing a new deduction of up to $1,000 for contributions to IRA's for employees participating in qualified pension plans. These provisions will reduce the inflationary thrust of individual tax cuts and give a substantial boost to capital formation. The bill also modifies the existing rules for pension plans to provide greater protection for rank-and-file employees and to prevent tax abuse.

Simplification and liberalization of the depreciation rules to eliminate the effect of inflation on capital recovery. This would be achieved by permitting business taxpayers to deduct the present value of all future depreciation allowances in the year an asset is purchased. This will provide substantial incentives for investment in new plant and equipment, but unlike 10–5–3 will not generate wasteful subsidies for buildings nor encourage tax shelter investments.

A 25 percent tax credit for certain expenditures on research and development, including R. & D. that the taxpayer pays universities to perform. This is intended to encourage risk taking and innovation to stimulate productivity and improve the competitiveness of our industries in international markets.

Mr. President, this approach is clearly preferable to the administration's proposals on both equity and efficiency grounds. But it is still a long way from the kind of radical tax cut America needs. Instead of 70 percent, or even 50 percent, I would like to see us lower the top individual rate to 30 percent. And rather than reducing the corporate tax burden by complicated depreciation allowances and increased investment tax credits, why not have a straightforward rate cut instead?

But the only way we can afford rate cuts of th's magnitude is by coming to grips with the special deductions, exclusions and credits that narrow the tax base and introduce wide disparities in tax liability among taxpayers with equal incomes.

The alarming proliferation of these special interest provisions threatens the integrity of our tax system. The main function of that system is to raise the revenues appropriate to our fiscal and distributive goals. In recent years, however, we have increasingly turned to the tax code to cure the social and economic ills that afflict our society. This ad hoc approach to tax policy and legislation has dangerously weakened and inordinately complicated the income tax. Many Americans know that the loopholes we have created enable wealthy individuals to avoid paying their fair share. The Internal Revenue Code is so complex that businessmen must get technical tax advice before making investment decisions which are then all too heavily influenced by consideration of the "tax angles." Tax forms are now so unwieldy that millions of low- and moderate-income Americans must pay to have their returns prepared, while the firms that do the preparing have become large and profitable.

Equally important is the way special interest tax provisions harm our economy. Today's tax subsidy is tomorrow's economic distortion. Because taxpayers act in reliance on these subsidies, it is virtually impossible to repeal them—even when their continuation siphons off scarce investment capital from more productive activities. And new subsidies are all too easily rationalized on the ground that special treatment for some has disadvantaged others.

Nothing in the administration's proposals even begins to address these problems. On the contrary, the administration's spending cuts will only motivate special interest groups to redouble their lobbying efforts to restore through the tax code what they lost in the budget. Mr. President, unless we reverse this trend in favor of greatly reduced rates and a truly comprehensive tax base, the only people paying income taxes will be the workers whose wages and salaries are subject to withholding.

In sum, Mr. President, while my tax bill is clearly preferable to the administration's, it is also true that neither of us goes far enough in lowering rates, reducing complexity and restoring equity. It is therefore high time that we assess the troubled state of our tax policy and make finding solutions an important national priority in the months ahead. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1319

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Tax Reduction Act of 1981".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—INDIVIDUAL INCOME TAXES

SEC. 101. DECREASE IN MAXIMUM RATE TO 60 PERCENT IN 1981.

(a) IN GENERAL.—Section 1 (relating to tax imposed) is amended—

(1) by striking out in the table in subsection (a) all that follows the item relating to taxable income in excess of $85,600 but less than $109,400 and inserting in lieu thereof the following:

"Over $109,400	$47,544, plus 60% of excess over $109,400.";

(2) by striking out in the table in subsection (b) all that follows the item relating to taxable income in excess of $60,600 but less than $81,800 and inserting in lieu thereof the following:

"Over $81,800	$35,055, plus 60% of excess over $81,800.";

(3) by striking out in the table in subsection (c) all that follows the item relating to taxable income in excess of $41,500 but not over $55,300 and inserting in lieu thereof the following:

"Over $55,300	$20,982, plus 60% of excess over $55,300.";

and

(4) by striking out in the table in subsection (d) all that follows the item relating to taxable income in excess of $42,800 but less than $54,700 and inserting in lieu thereof the following:

"Over $54,700	$23,772, plus 60% of excess over $54,700.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning in 1981.

SEC. 102. RATE CUTS FOR 1982 AND AFTER; INCREASE IN ZERO BRACKET AMOUNTS.

(a) RATE REDUCTION.—Section 1 (relating to tax imposed) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $3,600	No tax.
Over $3,600 but not over $5,600	12% of excess over $3,600.
Over $5,600 but not over $7,600	$240, plus 14% of excess over $5,600.
Over $7,600 but not over $11,600	$520, plus 17% of excess over $7,600.
Over $11,600 but not over $15,600	$1,200, plus 20% of excess over $11,600.
Over $15,600 but not over $20,000	$2,000, plus 23% of excess over $15,600.
Over $20,000 but not over $24,400	$3,012, plus 27% of excess over $20,000.
Over $24,400 but not over $29,700	$4,200, plus 29% of excess over $24,400.
Over $29,700 but not over $35,000	$5,737, plus 35% of excess over $29,700.
Over $35,000 but not over $45,600	$7,592, plus 41% of excess over $35,000.
Over $45,600 but not over $59,800	$11,938, plus 48% of excess over $45,600.
Over $59,800	$18,754, plus 50% of excess over $59,800.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $2,400	No tax.
Over $2,400 but not over $4,400	12% of excess over $2,400.
Over $4,400 but not over $6,400	$240, plus 14% of excess over $4,400.
Over $6,400 but not over $8,400	$520, plus 17% of excess over $6,400.
Over $8,400 but not over $11,400	$860, plus 21% of excess over $8,400
Over $11,400 but not over $14,600	$1,490, plus 23% of excess over $11,400.
Over $14,600 but not over $18,000	$2,226, plus 25% of excess over $14,600.
Over $18,000 but not over $23,300	$3,076, plus 30% of excess over $18,000.
Over $23,300 but not over $28,600	$4,666, plus 35% of excess over $23,300.
Over $28,600 but not over $33,900	$6,521, plus 40% of excess over $28,600.
Over $33,900 but not over $44,500	$8,641, plus 45% of excess over $33,900.
Over $44,500	$13,411, plus 50% of excess over $44,500.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

If taxable income is:	The tax is:
Not over $2,400	No tax.
Over $2,400 but not over $3,400	12% of excess over $2,400.
Over $3,400 but not over $4,400	$120, plus 14% of excess over $3,400.
Over $4,400 but not over $6,400	$260, plus 17% of excess over $4,400.
Over $6,400 but not over $8,400	$600, plus 18% of excess over $6,400.
Over $8,400 but not over $10,400	$960, plus 20% of excess over $8,400.
Over $10,400 but not over $12,800	$1,360, plus 23% of excess over $10,400.
Over $12,800 but not over $14,900	$1,912, plus 25% of excess over $12,800.
Over $14,900 but not over $18,100	$2,437, plus 29% of excess over $14,900.
Over $18,100 but not over $23,400	$3,365, plus 32% of excess over $18,100.
Over $23,400 but not over $28,700	$5,061, plus 38% of excess over $23,400.
Over $28,700 but not over $34,000	$7,075, plus 43% of excess over $28,700.
Over $34,000 but not over $41,400	$9,354, plus 48% of excess over $34,000.
Over $41,400	$12,906, plus 50% of excess over $41,400.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following table:

If taxable income is:	The tax is:
Not over $1,800	No tax.
Over $1,800 but not over $2,800.	12% of excess over $1,800.
Over $2,800 but not over $3,800.	$120, plus 14% of excess over $2,800.
Over $3,800 but not over $5,800	$260, plus 17% of excess over $3,800.
Over $5,800 but not over $7,800.	$600, plus 20% of excess over $5,800.
Over $7,800 but not over $10,000.	$1,000, plus 23% of excess over $7,800.
Over $10,000 but not over $12,200.	$1,506, plus 27% of excess over $10,000.
Over $12,200 but not over $14,850.	$2,100, plus 29% of excess over $12,200.
Over $14,850 but not over $17,500.	$2,868, plus 35% of excess over $14,850.
Over $17,500 but not over $22,800.	$3,796, plus 41% of excess over $17,500.
Over $22,800 but not over $29,900.	$5,969, plus 48% of excess over $22,800.
Over $29,900	$9,377, plus 50% of excess over $29,900.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $1,000	12% of taxable income.
Over $1,000 but not over $2,000.	$120, plus 14% of excess over $1,000.
Over $2,000 but not over $4,000.	$260, plus 17% of excess over $2,000.
Over $4,000 but not over $6,000.	$600, plus 20% of excess over $4,000.
Over $6,000 but not over $8,200.	$1,000, plus 23% of excess over $6,000.
Over $8,200 but not over $10,400.	$1,506, plus 27% of excess over $8,200.
Over $10,400 but not over $13,050.	$2,100, plus 29% of excess over $10,400.
Over $13,050 but not over $15,700.	$2,868, plus 35% of excess over $13,050.
Over $15,700 but not over $21,000.	$3,796, plus 41% of excess over $15,700.
Over $21,000 but not over $28,100.	$5,969, plus 48% of excess over $21,000.
Over $28,100	$9,377, plus 50% of excess over $28,100.".

(b) INCREASE IN ZERO BRACKET AMOUNT.—Subsection (d) of section 63 (defining zero bracket amount) is amended—

(1) by striking out "$3,400" and inserting in lieu thereof "$3,600",

(2) by striking out "$2,300" and inserting in lieu thereof "$2,400", and

(3) by striking out "$1,700" and inserting in lieu thereof "$1,800".

(c) FILING REQUIREMENTS.—Paragraph (1) of section 6012 (a) (relating to persons required to make returns of income) is amended—

(1) by striking out "$3,300" and inserting in lieu thereof "$3,500",

(2) by striking out "$4,400" and inserting in lieu thereof "$4,700", and

(3) by striking out "$5,400" and inserting in lieu thereof "$5,800".

(d) CONFORMING AMENDMENTS.—

(1) LUMP SUM DISTRIBUTIONS TAX.—Subparagraph (C) of section 402 (e) (1) (relating to tax on lump sum distributions) is amended by striking out "$2,300" and inserting in lieu thereof "$2,400".

(2) PERSONAL HOLDING COMPANY TAX.—Section 541 (relating to personal holding company tax) is amended by striking out "70 percent" and inserting in lieu thereof "50 percent (65 percent in the case of taxable years beginning in 1981)".

(e) WITHHOLDING AMENDMENTS.—

(1) WITHHOLDING TABLES.—Subsection (a) of section 3402 (relating to requirement of withholding) is amended by striking out the second sentence and inserting in lieu thereof the following new sentence: "With respect to wages paid after December 31, 1981, the tables so prescribed shall be the same as the tables prescribed under this subsection which were in effect on January 1, 1981, except that such tables shall be modified to the extent necessary to reflect the amendments made by section 102 of the Tax Reduction Act of 1980.".

(2) WITHHOLDING ALLOWANCES BASED ON ITEMIZED DEDUCTIONS.—Subparagraph (B) of section 3402 (m) (1) (relating to withholding allowances based on itemized deductions) is amended—

(A) by striking out "$3,400" and inserting in lieu thereof "$3,600", and

(B) by striking out "$2,300" and inserting in lieu thereof "$2,400".

(f) REPEAL OF MAXIMUM TAX.—

(1) IN GENERAL.—Part VI of subchapter Q of chapter 1 (relating to maximum rate on personal service income) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 3 (b) (relating to tax tables for individuals) is amended to read as follows:

"(1) an individual to whom section 1301 (relating to income averaging) applies for the taxable year,".

(B) Subsection (b) of section 1304 (relating to special rules for income averaging) is amended—

(i) by inserting "and" at the end of paragraph (1),

(ii) by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and

(iii) by striking out paragraph (3).

(C) The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part VI.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), (d), and (f) shall apply to taxable years beginning after December 31, 1981.

(2) WITHHOLDING AMENDMENTS.—The amendments made by subsection (c) shall apply to remuneration paid after December 31, 1981.

SEC. 103. PERSONAL EXEMPTIONS INCREASED TO $1,100.

(a) GENERAL RULE.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "$1,100".

(b) FILING REQUIREMENTS.—

(1) Section 6012(a)(1)(B) (relating to persons required to file returns of income) is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "$1,100".

(2) Subparagraph (A) of section 6013 (b)(3) (relating to assessment and collection in the case of certain returns of husband and wife) is amended by striking out "$1,000" and "$2,000" each place they appear and inserting in lieu thereof "$1,100" and "$2,200", respectively.

(c) WITHHOLDING REQUIREMENTS.—

(1) Paragraph (1) of section 3402(b) (relating to percentage method of withholding income tax at source) is amended by striking out the table and inserting in lieu thereof the following:

"PERCENTAGE METHOD WITHHOLDING TABLE

"Payroll period	Amount of 1 withholding exemption
Weekly	$21.15
Biweekly	42.31
Semimonthly	45.83
Monthly	91.67
Quarterly	275.00
Semiannual	550.00
Annual	1,100.00
Daily or miscellaneous (per day of such period)	3.01"

(2) Paragraph (1) of section 3402(m) (relating to withholding allowances based on itemized deductions) is amended by striking out "$1,000" and inserting in lieu thereof "$1,100".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1980.

(2) WITHHOLDING AMENDMENTS. — The amendments made by subsection (c) shall apply with respect to remuneration paid after December 31, 1981.

SEC. 104. INCREASE IN THE EARNED INCOME TAX CREDIT.

(a) INCREASE IN CREDIT.—Subsection (a) of section 43 (relating to earned income credit) is amended by striking out "10 percent" and inserting in lieu thereof "11 percent".

(b) REVISION OF LIMITATION.—Subsection (b) of section 43 (relating to limitation) is amended to read as follows:

"(b) LIMITATION.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) $550, over

"(2) 13.75 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $7,000.".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (f)(2) of section 43 is amended—

(A) by striking out "$10,000" each place it appears and inserting in lieu thereof "$11,000", and

(B) by striking out "$6,000" and inserting in lieu thereof "$7,000".

(2) Paragraph (2) of section 3507(c) (relating to earned income advance amount tables) is amended—

(A) by striking out "10 percent" each place it appears and inserting in lieu thereof "11 percent",

(B) by striking out "$6,000 and $10,000" and inserting in lieu thereof "$7,000 and $11,000", and

(C) by striking out "$3,000 and $5,000" and inserting in lieu thereof "$3,500 and $5,500".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) AMENDMENTS OF SECTION 3507.—The amendments made by subsection (c)(2) shall apply to remuneration paid after December 31, 1981.

SEC. 105. DEDUCTION FOR TWO-EARNER MARRIED COUPLES.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. DEDUCTION FOR TWO-EARNER MARRIED COUPLES.

"(a) IN GENERAL.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to 10 percent of the lesser of—

"(1) $40,000, or

"(2) the qualified married earner amount.

"(b) DEFINITION OF QUALIFIED MARRIED EARNER AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified married earner amount' means an amount equal to the qualified earned income of the spouse with the lower qualified earned income for the taxable year.

"(2) QUALIFIED EARNED INCOME.—For purposes of paragraph (1), the term 'qualified earned income' means an amount equal to the excess of—

"(A) the earned income of the spouse for the taxable year, over

"(B) an amount equal to the sum of the deductions described in paragraph (1), (2), (7), (9), or (10) of section 62 to the extent such deductions are properly allocable to or chargeable against earned income described in subparagraph (A).

The amount of qualified earned income shall be determined without regard to any community property laws.

"(3) EARNED INCOME.—For purposes of paragraph (2), the term 'earned income' means income which is earned income within the meaning of section 401(c)(2)(C) or 911(b), except that—

"(A) such term shall not include any amount—

"(i) not includible in gross income,

"(ii) received as a pension or annuity,

"(iii) paid or distributed out of an individual retirement plan (within the meaning of section 7701(a)(37)),

"(iv) received as deferred compensation, or

"(v) received for services performed by an individual in the employ of his spouse (within the meaning of section 3121(b)(3)(A)), and

"(B) section 911(b) shall be applied without regard to the phrase ', not in excess of 30 percent of his share of net profits of such trade or business,'.

"(c) DEDUCTION DISALLOWED FOR INDIVIDUAL CLAIMING BENEFITS OF SECTION 911, 913, or 931.—No deduction shall be allowed under this section for any taxable year if either spouse claims the benefits of section 911, 913, or 931 for such taxable year.".

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62 (defining adjusted gross income) is amended by inserting after paragraph (14) the following new paragraph:

"(17) DEDUCTION FOR TWO-EARNER MARRIED COUPLES.—The deduction allowed by section 221.".

(c) CONFORMING AMENDMENT TO WITHHOLDING.—Subparagraph (A) of section 3402(m)(2) (defining estimated itemized deductions) is amended by striking out "other than paragraphs (13) thereof" and inserting in lieu thereof "other than paragraphs (13) and (17) thereof".

(d) OTHER CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 85 (relating to unemployment compensation) is amended by striking out "and without regard to section 105(d)" and inserting in lieu thereof ", section 105(d), and section 221".

(2) Subsection (d)(3) of section 105 (relating to amounts received under accident and health plans) is amended by inserting "and section 221" after "subsection" the first place it appears.

(3) The table of sections for such part VII is amended by striking out the item relating to section 221 and inserting in lieu thereof the following new items:

"221. Deduction for two-earner married couples.

"222. Cross references.".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) WITHHOLDING.—The amendment made by subsection (c) shall apply to remuneration paid after December 31, 1981.

SEC. 106. APPLICATION OF CERTAIN CHANGES IN THE CASE OF FISCAL YEAR TAXPAYERS.

Section 21 (relating to effects of changes in rate of tax) is amended by adding at the end thereof the following new subsection:

"(g) CHANGES MADE BY TAX REDUCTION ACT OF 1981.—In applying subsection (a) to a taxable year which is not a calendar year, the amendments made by sections 101, 102, and 103 of the Tax Reduction Act of 1981 (and no other amendments made by such Act) shall be treated as a change in a rate of tax.".

TITLE II—CORPORATE INCOME TAXES

Subtitle A—Cost Recovery Provisions

SEC. 201. FIRST-YEAR CAPITAL COST RECOVERY METHOD.

(a) IN GENERAL.—Part IV of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 167 the following new section:

"SEC. 168. FIRST-YEAR CAPITAL COST RECOVERY METHOD.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction an amount equal to the aggregate of the applicable percentage of the basis of each first-year recovery property placed in service by the taxpayer during the taxable year.

"(b) CLASS AND APPLICABLE PERCENTAGE.—

"(1) IN GENERAL.—All first-year recovery property—

"(A) shall be placed in one of the four classes set forth in the following table, and

"(B) shall have the applicable percentage set forth for such class in the following table:

"Class	Applicable percentage:
1	98.5
2	97.3
3	94.8
4	92.7

"(2) ASSIGNMENT TO CLASSES.—The Secretary shall prescribe a table which sets forth the types of assets which fall into each of the 4 classes.

"(3) INITIAL ASSIGNMENT OF PROPERTY TO CLASS.—

"(A) IN GENERAL.—For purposes of this section—

"FIRST-YEAR RECOVERY PROPERTY WITH PRESENT CLASS LIFE (IN YEARS)	Shall be placed in class:
Less than 4	1
4 or more but less than 8.5	2
8.5 or more but less than 14.5	3
14.5 or more	4

"(B) PRESENT CLASS LIFE.—For purposes of this paragraph, the present class life of any property is the class life (if any) which would be applicable to such property as of May 1, 1981, under section 167(m) (determined without regard to any regulation, ruling, or announcement published by the Secretary after such date).

"(4) ASSIGNMENT TO DIFFERENT CLASS.—The Secretary may assign any property to a different class if the Secretary determines that as a result of such assignment the yearly declines (in constant dollars) in the value of the property will be more accurately reflected (relative to such declines for other property).

"(5) PROPERTY FOR WHICH THERE IS NO CLASS LIFE.—If a present class life cannot be determined under paragraph (3)(B) with respect to any property, the Secretary shall assign such property to a class in a manner consistent with paragraph (4).

"(c) FIRST-YEAR RECOVERY PROPERTY DEFINED.—Except as otherwise provided in this section, for purposes of this title, the term 'first-year recovery property' means tangible property—

"(1) which is of a character subject to the allowance of depreciation,

"(2) which is—

"(A) personal property, or

"(B) other property (not including a building and its structural components) but only so long as it meets the requirements of clause (i), (ii), or (iii) of section 1245(a)(3)(B), and

"(3) which is placed in service by the taxpayer after December 31, 1980.

"(d) CERTAIN PROPERTY EXCLUDED FROM

DEFINITION OF FIRST-YEAR RECOVERY PROPERTY.—For purposes of this section—

"(1) PROPERTY USED PREDOMINANTLY OUTSIDE THE UNITED STATES.—The term 'first-year recovery property' does not include property which, during the taxable year, is used predominantly outside the United States (within the meaning of paragraph (2) of section 48(a)).

"(2) CERTAIN LIVESTOCK.—The term 'first-year recovery property' does not include livestock (within the meaning of section 1231 (b)(3) without regard to the period for which such livestock has been held by the taxpayer) other than items of livestock which the taxpayer elects to treat as first-year recovery property.

"(3) CERTAIN METHODS OF DEPRECIATION.—The term 'first-year recovery property' does not include—

"(A) property if—

"(i) the taxpayer elects to exclude such property from the application of this section, and

"(ii) for the first taxable year for which a deduction would (but for such election) be allowable under this section with respect to such property, the property is depreciated under the unit-of-production method or any other method of depreciation not expressed in a term of years,

"(B) property which is a leasehold improvement which is depreciated or amortized over the term of the lease, or

"(C) property which is depreciated under the retirement-replacement-betterment method.

"(4) AMORIZATION PROPERTY.—The term 'first-year recovery property' does not include property with respect to which the taxpayer—

"(A) is entitled to elect amortization (in lieu of depreciation), and

"(B) elects such amortization.

"(5) PUBLIC UTILITY.—The term 'first-year recovery property' does not include—

"(A) any public utility property with a present class life of more than 18 years, and

"(B) any public utility property with a present class life of 18 years or less unless the taxpayer uses a normalization method of accounting (within the meaning of section 167 (1)(3)(G)) with respect to such property.

For purposes of the preceding sentence, the present class life of any property shall be determined under rules similar to the rules of paragraphs (3)(B), (4), and (5) of subsection (b).

"(6) OIL OR GAS FIRED BOILERS.—The term 'first-year recovery property' does not include any boiler described in section 167(b).

"(7) NONCORPORATE LESSORS.—In the case of a person other than a corporation, the term, 'first-year recovery property' includes property with respect to which such person is the lessor only if subparagraph (A) or (B) of the first sentence of section 46(e)(3) is met with respect to such property.

"(e) SPECIAL RULES FOR DISPOSITIONS OF FIRST-YEAR RECOVERY PROPERTY.—For purposes of this title (other than this section)—

"(1) ZERO BASIS.—The adjusted basis of any first-year recovery property shall be zero.

"(2) DISPOSITIONS.—In the case of any disposition of first-year recovery property—

"(A) the applicable percentage (determined under subsection (b)) of—

"(i) the amount realized, or

"(ii) in the case of a disposition other than a sale, exchange, or involuntary conversion, the fair market value of such property,

shall be treated as ordinary income and shall be recognized notwithstanding any other provision of this subtitle, and

"(B) no gain other than that treated as ordinary income under subparagraph (A) shall be recognized.

"(f) SPECIAL RULES.—

"(1) DISPOSITIONS WITHIN 1 YEAR AFTER PLACED IN SERVICE.—The term 'first-year recovery property' shall not include any property if such property is disposed of by the taxpayer before the date 1 year after the date on which such property was placed in service.

"(2) PROPERTY FOR WHICH INVESTMENT CREDIT NOT ALLOWABLE.—If a credit would not be allowable under section 38 to the taxpayer with respect to any first-year recovery property (determined without regard to sections 48(a)(11) and 48(c)(2)), the applicable percentage for such property shall be determined under the following table (in lieu of the table contained in subsection (b)(1)(B)):

"Class:	percentage: Applicable
1	91. 3
2	79. 5
3	73. 1
4	71. 0

"(3) PROPERTY WHICH CEASES TO BE A FIRST-YEAR RECOVERY PROPERTY.—If any first-year recovery property for which a deduction was allowable to the taxpayer under this section ceases to be first-year recovery property with respect to the taxpayer—

"(A) the taxpayer shall be treated as having disposed of such property for an amount equal to its fair market value as of the date of such cessation, and

"(B) the basis of such property in the hands of the taxpayer after the date of such cessation shall be treated as equal to such fair market value.

"(4) PUBLIC UTILITY PROPERTY.—For purposes of this section, the term 'public utility property' has the meaning given to such term by section 167(1)(3)(A) except that, for purposes of this section, clause (iv) of such section shall be applied as if it read as follows:

"'(iv) transportation of gas, oil, or steam by pipeline,'.

"(g) PHASE-IN.—

"(1) REDUCTION OF DEDUCTION FOR PROPERTY PLACED IN SERVICE BEFORE 1990.—

"(A) IN GENERAL.—In the case of any first-year recovery property placed in service before 1990, the amount allowable as a deduction under this section shall be the phase-in percentage of the amount which, but for this paragraph, would have been so allowable with respect to such property.

"(B) PHASE-IN PERCENTAGE.—For purposes of subparagraph (A)—

"In the case of property placed in service during:	The phase-in percentage is:
1981	35
1982	50
1983	50
1984	70
1985	75
1986	80
1987	85
1988	90
1989	95

"(2) DENIED DEDUCTION PLACED IN SUSPENSE ACCOUNT.—The taxpayer shall establish a suspense account for purposes of this subsection. As of the close of each taxable year ending after December 31, 1980—

"(A) the taxpayer shall add to such suspense account the aggregate amount disallowed as a deduction by reason of paragraph (1) with respect to property placed in service during such taxable year,

"(B) the taxpayer shall add to such account an amount equal to the balance in such account (as of the first day of such taxable year), multiplied by one-half of the rate of interest in effect under section 6621 as of the middle of such taxable year, and

"(C) the taxpayer shall subtract from such account the amount by which the amount allowable as a deduction under subsection (a) for such taxable year is increased by reason of paragraph (3).

"(3) Allowance of suspended deductions.—

"(A) IN GENERAL.—In the case of taxable years beginning after 1981 and before 1991, the recovery percentage of the balance in the suspense account established by the taxpayer under paragraph (2) shall be added to the amount allowable as a deduction under subsection (a) for such taxable year. Such balance shall be determined as of the close of the taxable year but before making the adjustments under subparagraphs (A) and (C) of paragraph (2) for the taxable year.

"(B) RECOVERY PERCENTAGE.—For purposes of subparagraph (A)—

"In the case of taxable years beginning in:	The recovery percentage is:
1982	25
1983	30
1984	35
1985	40
1986	45
1987	50
1988	55
1989	70
1990	100

"(h) OTHER TRANSITIONAL RULES.—

"(1) LIMIT ON USED PROPERTY.—For purposes of this section—

"(A) IN GENERAL.—In the case of property placed in service in a taxable year beginning before 1984, the term 'first-year recovery property' shall include used property only to the extent that the aggregate cost of used property placed in service during such taxable year does not exceed the limitation determined under the following table:

"In the case of a taxable year beginning in:	The limitation is:
1980 or 1981	$100, 000
1982	200, 000
1983	300, 000

If such cost exceeds the limitation determined under the preceding table, the taxpayer shall select (at such time and in such manner as the Secretary shall by regulations prescribe) the items of used property which are to be treated as first-year recovery property, but only to the extent of an aggregate cost not in excess of such limitation. Such a selection, once made, may be changed only in the manner, and to the extent, provided by such regulations.

"(B) USED PROPERTY.—For purposes of this paragraph, the term 'used property' means any property—

"(i) the original use of which does not begin with the taxpayer, and

"(ii) which is first-year recovery property (determined without regard to this paragraph).

"(C) COORDINATION WITH LIMITATION ON USED PROPERTY FOR INVESTMENT TAX CREDIT.—The limitation of section 48(c)(2) applicable to the taxpayer for any taxable year shall be reduced by an amount equal to the cost of any used property taken into account under this section for such taxable year.

"(D) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subparagraphs (B), (C), and (D) of paragraph (2) of section 48(c) and of paragraph (3) of section 48(c) shall apply for purposes of this paragraph.

"(2) PROPERTY CONTINUES TO BE USED BY SAME PERSON.—The term 'first-year recovery property' shall not include any property acquired by the taxpayer if, after its acquisition by the taxpayer, it is used by a person who used such property before January 1, 1981 (or by a person who bears a relationship described in subparagraph (A) or (B) of section 179(c)(2) to a person who used such property before such date).

"(i) PARTNERSHIPS, SUBCHAPTER S CORPORATIONS, AND OTHER PASSTHROUGH ENTITIES.—The Secretary shall prescribe such regulations as may be necessary to ensure that the tax treatment of each partner, shareholder, or other beneficiary of a partnership, electing small business corporation, or other pass-

through entity with respect to the acquisition, disposition, or distribution of (or other transaction with respect to) first-year recovery property by the entity is consistent with the treatment which would result if such beneficiary engaged in such transaction directly."

(b) FIRST-YEAR RECOVERY DEDUCTION TREATED AS DEPRECIATION.—Subsection (a) of section 167 (relating to depreciation) is amended by adding at the end thereof the following new sentence: "In the case of first-year recovery property (as defined in section 168(c)), the deduction allowable under section 168 shall be deemed to constitute the reasonable allowance provided by this section.".

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 167 the following new item:

"Sec. 168. First-year capital cost recovery method.".

SEC. 202. DEPRECIATION OF REAL PROPERTY.

Section 167 (relating to depreciation) is amended by redesignating subsection (s) as subsection (t) and by inserting after subsection (r) the following new subsection:

"(s) METHOD OF DEPRECIATING CERTAIN REAL PROPERTY.—

"(1) IN GENERAL.—In the case of section 167(s) property (other than low-income housing), the depreciation allowance under subsection (a) shall be computed under the straight line method using a useful life of 20 years and no salvage value.

"(2) LOW-INCOME HOUSING.—In the case of low-income housing, the depreciation allowance under subsection (a) shall be computed under the straight line method using a useful life of 15 years and no salvage value.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) SECTION 167(S) PROPERTY.—Except as provided in subparagraph (B), the term 'section 167(s) property' means any property—

"(i) which is section 1250 property or an elevator or escalator which would be section 1250 property but for section 1245(a)(3)(C), and

"(ii) which is placed in service after December 31, 1980.

"(B) EXCEPTION FOR PROPERTY FOR WHICH CLASS LIFE IS PRESCRIBED UNDER SUBSECTION (m).—The term 'section 167(r) property' shall not include any property for which a class life is in effect under subsection (m) as of May 1, 1981.

"(C) LOW-INCOME HOUSING.—The term 'low-income housing' means any property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B).".

SEC. 203. $25,000 OF DEPRECIABLE BUSINESS ASSETS TREATED AS EXPENSE.

(a) IN GENERAL.—Section 179 (relating to additional first-year depreciation allowance for small business) is amended to read as follows:

"SEC. 179. EXPENSE TREATMENT FOR CERTAIN DEPRECIABLE BUSINESS ASSETS.

"(a) TREATMENT OF EXPENSES.—The cost of any section 179 property shall be treated as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the section 179 property is placed in service.

"(b) DOLLAR LIMITATION.—

"(1) IN GENERAL.—The aggregate cost taken into account under subsection (a) for any taxable year shall not exceed $25,000 ($12,500 in the case of a married individual filing a separate return).

"(2) ORDER IN WHICH PROPERTY TAKEN INTO ACCOUNT.—Except as otherwise provided in regulations prescribed by the Secretary, if the aggregate cost of section 179 property placed in service by the taxpayer during the taxable year exceeds the limitation of paragraph (1), property shall be taken into account under subsection (a)—

"(A) in the order of the classes in which such property is placed under section 168(b) (beginning with the class with the lowest number), and

"(B) within any class, in the order in which the property is placed in service.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) SECTION 179 PROPERTY.—For purposes of this section, the term 'section 179 property' means any first-year recovery property which is acquired by purchase for use in a trade or business.

"(2) PURCHASE DEFINED.—For purposes of paragraph (1), the term 'purchase' means any acquisition of property, but only if—

"(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b) (but, in applying section 267 (b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants),

"(B) the property is not acquired by one component member of a controlled group from another component member of the same controlled group, and

"(C) the basis of the property in the hands of the person acquiring it is not determined—

"(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(3) SPECIAL RULE FOR SECTION 1031 OR 1033 EXCHANGES.—For purposes of this section, in the case of any property received in an exchange described in section 1031 or 1033, the cost of such property shall only include money or the fair market value of other property (within the meaning of section 1031), or the fair market value of property not similar or related in service or use (within the meaning of section 1033) received by the taxpayer.

"(4) SECTION NOT TO APPLY TO ESTATES AND TRUSTS.—This section shall not apply to estates and trusts.

"(5) DOLLAR LIMITATION OF CONTROLLED GROUP.—For purposes of subsection (b) of this section—

"(A) all component members of a controlled group shall be treated as one tax payer, and

"(B) the Secretary shall apportion the dollar limitation contained in subsection (b) among the component members of such controlled group in such manner as he shall by regulations prescribe.

"(6) CONTROLLED GROUP DEFINED.—For purposes of paragraphs (2) and (5), the term 'controlled group' has the meaning assigned to it by section 1563(a), except that, for such purposes, the phrase 'more than 50 percent' shall be substituted for the phrase at least 80 percent' each place it appears in section 1563(a)(1).

"(7) DOLLAR LIMITATION IN CASE OF PARTNERSHIPS.—In the case of a partnership, the dollar limitation contained in subsection (b) shall apply with respect to the partnership and with respect to each partner.

"(8) COORDINATION WITH SECTION 168.—

"(A) WHERE ENTIRE COST DEDUCTED.—If the entire cost of any section 179 property (determined without regard to paragraph (3)) is allowed as a deduction under subsection (a), such property shall not be treated as first-year recovery property for purposes of section 168.

"(B) WHERE ONLY PART OF COST DEDUCTED.—If only a portion of the cost of any section 179 property (determined without regard to paragraph (3)) is allowed as a deduction under subsection (a)—

"(i) such property shall not be treated as first-year recovery property for purposes of section 168 to the extent of the amount allowed as a deduction under subsection (a) of this section, and

"(ii) in the case of any disposition of such property, for purposes of sections 1245 and 168(f), the taxpayer shall be treated as having disposed of 2 properties each of which bears the same ratio to fair market value at the time of disposition as the amount taken into account under this section or section 168 (as the case may be) bears to the sum of such 2 amounts.".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 263(a) (relating to capital expenditures) is amended—

(A) by striking "or" at the end of subparagraph (F);

(B) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof a comma and "or", and

(C) by adding at the end thereof the following new subparagraph:

"(H) the cost of any property deductible under section 179.".

(2) Subparagraph (A) of section 1033(g)(3) (relating to condemnation of real property held for productive use in trade or business or for investment) is amended by striking out "(relating to additional first-year depreciation allowance for small business)" and inserting in lieu thereof "(relating to expense treatment for certain depreciable b siness assets)".

(c) RECAPTURE RULE.—Subsection (a) of section 1245 (relating to gains from dispositions from certain depreciable property) is amended—

(1) by striking out "169, 184" each place it appears in paragraph (2) and inserting in lieu thereof "169, 179, 184",

(2) by striking out "section 190" in the third sentence of paragraph (2) and inserting in lieu thereof "section 179, 190", and

(3) by striking out "169, 185" in paragraphs (2)(D) and (3)(D) and inserting in lieu thereof "169, 179, 185".

(d) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 179 and inserting in lieu thereof the following:

"Sec. 179. Expense treatment for certain depreciable business assets.".

SEC. 204. THIRTY PERCENT VARIANCE FROM CLASS LIFE FOR LONG-LIFE PUBLIC UTILITY PROPERTY AND CERTAIN REAL PROPERTY.

Subsection (m) of section 167 (relating to class lives) is amended by adding at the end thereof the following new paragraph:

"(4) 30 PERCENT VARIANCE FOR LONG-LIFE PUBLIC UTILITY PROPERTY AND CERTAIN REAL PROPERTY.—In the case of—

"(A) any property which is placed in service after December 31, 1980, and is described in subparagraph (A) of section 168(d)(5) (relating to long-life public utility property), and

"(B) any property placed in service after December 31, 1980, which would be section 167(s) property but for subsection (s)(3)(B),

the last sentence of paragraph (1) shall be applied by substituting '30 percent' for '20 percent' ".

SEC. 205. TERMINATION OF INVESTMENT TAX CREDIT.

(a) GENERAL RULE.—Subsection (a) of section 48 (defining section 38 property) is amended by adding at the end thereof the following new paragraph:

"(11) FIRST-YEAR RECOVERY PROPERTY.—The term 'section 38 property' shall not include any first-year recovery property (as defined in section 168).".

(b) CONTINUATION OF ENERGY CREDIT.—Subparagraph (B) of section 48(l)(1) (re-

lating to energy property treated as section 38 property) is amended by striking out "paragraph (3)" and inserting in lieu thereof "paragraphs (3) and (11)".

SEC. 206. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to taxable years ending after December 31, 1980.

Subtitle B—Research and Experimental Expenditures

SEC. 211. CREDIT FOR RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"SEC. 44F. CREDIT FOR RESEARCH AND EXPERIMENTAL EXPENDITURES.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 25 percent of the qualified research or experimental expenditures, plus

"(2) 25 percent of the qualified higher education research or experimental expenditures,

paid or incurred by the taxpayer during the taxable year in carrying on any trade or business of the taxpayer.

"(b) QUALIFIED RESEARCH AND EXPERIMENTAL EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified research and experimental expenditures' means the excess of—

"(A) the research and experimental expenditures of the taxpayer for the taxable year, over

"(B) the average of such expenditures during the base period of the taxpayer.

"(2) BASE PERIOD.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'base period' means the 3 taxable years immediately preceding the taxable year for which the determination is being made.

"(B) TRANSITIONAL RULES.—Subparagraph (A) shall be applied—

"(i) by substituting 'first taxable year' for '3 taxable years' in the case of taxable years beginning in 1981, and

"(ii) by substituting '2' for '3' in the case of taxable years beginning in 1982.

"(3) DEEMED TAXABLE YEARS.—If the number of taxable years in the base period exceeds the number of taxable years of—

"(A) the taxpayer, or

"(3) any person with whom the taxpayer is required to aggregate expenditures under subsection (d)(2).

which precede the taxable year, then the taxpayer or such person shall be treated as having a number of taxable years equal to such excess during which no research and experimental expenditures were made.

"(c) QUALIFIED HIGHER EDUCATION RESEARCH AND EXPERIMENTAL EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified higher education research and experimental expenditures' means amounts paid during a taxable year to any institution of higher education for a planned research, critical investigation, or experimentation to the extent that such amounts do not exceed 5 percent of the taxable income of the taxpayer for such year.

"(2) CERTAIN AMOUNTS INCLUDED.—The term 'qualified higher education research and experimental expenditures' includes those expenditures described in paragraph (1) utilized for an exploration for new knowledge (1) undertaken without a predetermined application or (2) for a possible application which may prove useful to the taxpayer.

"(3) CERTAIN ITEMS EXCLUDED.—The term 'qualified higher education research and experimental expenditures' does not include any amount paid for—

"(A) the ordinary testing or inspection of materials or products for quality control, or for efficiency surveys, advertising, promotions, management studies, or consumer surveys;

"(B) acquiring any patent, model, production, or process from any other person, or obtaining a patent (including attorney's fees expended in a patent application);

"(C) research to the extent that the taxpayer has received a grant, contract or subcontract for such research from any Federal, State, or local government, or agency or instrumentality thereof; or

"(D) research in the social sciences or humanities.

"(4) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution described in section 1201(a) or 481(a) of the Higher Education Act of 1965 (as in effect on January 1, 1981).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) RESEARCH AND EXPERIMENTAL EXPENDITURES.—The term 'research and experimental expenditures' has the meaning given to such term by section 174(e), except that such term shall only include expenditures for research and experimentation conducted within the United States.

"(2) AGGREGATION OF EXPENDITURES.—

"(A) CONTROLLED GROUP OF CORPORATIONS.—In determining the amount of the credit under this section—

"(i) all research and experimental expenditures (and all qualified higher education research and experimental expenditures) of members of the same controlled group of corporations shall be treated as expenditures of a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such member shall be its proportionate share of the increase in research and experimental expenditures giving rise to the credit (or its proportionate share of such qualified higher education expenditures).

"(B) COMMON CONTROL.—Under regulations prescribed by the Secretary, in determining the amount of the credit under this section—

"(i) all research and experimental expenditures (and all qualified higher education research and experimental expenditures) of trades or businesses (whether or not incorporated) which are under common control shall be treated as expenditures of a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such person shall be its proportionate share of the increase in research and experimental expenditures giving rise to the credit (or its proportionate share of such qualified higher education expenditures).

The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(3) PASSTHROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply.

"(4) ADJUSTMENTS FOR CERTAIN ACQUISITIONS, ETC.—Under regulations prescribed by the Secretary—

"(A) ACQUISITIONS.—If, after December 31, 1979, a taxpayer acquires the major portion of a trade or business of another person (hereinafter in this paragraph referred to as the 'predecessor') or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section for any taxable year ending after such acquisition, the amount of research and experimental expenditures (and the amount of qualified higher education research and experimental expenditures) paid or incurred by the taxpayer during periods before such acquisition shall be increased by so much of such expenditures paid or incurred by the predecessor with respect to the acquired trade or business as is attributable to the portion of such trade or business or separate unit acquired by the taxpayer.

"(B) DISPOSITIONS.—If, after December 31, 1979—

"(i) a taxpayer disposes of the major portion of any trade or business or the major portion of a separate unit of a trade or business in a transaction to which subparagraph (A) applies, and

"(ii) the taxpayer furnishes the acquiring person such information as is necessary for the application of subparagraph (A),

then, for purposes of applying this section for any taxable year ending after such disposition, the amount of research and experimental expenditures (and the amount of qualified higher education research and experimental expenditures) paid or incurred by the taxpayer during periods before such disposition shall be decreased by so much of such expenditures as is attributable to the portion of such trade or business or separate unit disposed of by the taxpayer.

"(5) SHORT TAXABLE YEARS.—In the case of any short taxable year, research and experimental expenditures (and qualified higher education research and experimental expenditures) shall be annualized in such circumstances and under such methods as the Secretary may prescribe by regulation.

"(6) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the same meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(e) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed by subsection (a) for any taxable year shall not exceed the amount of the tax imposed by this chapter reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(2) CARRYBACK AND CARRYOVER OF UNUSED CREDIT.—

"(A) ALLOWANCE OF CREDIT.—If the amount of the credit determined under this section for any taxable year exceeds the limitation provided by paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(i) a research and experimental credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(ii) a research and experimental credit carryover to each of the 7 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by this section for such years. If any portion of such excess is a carryback to a taxable year beginning before January 1, 1981, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 10 taxable years to which (by reason of clauses (i) and (ii)) such credit may be carried, and then to each of the other 9 taxable years to the ex-

tent that, because of the limitation contained in subparagraph (B), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATION.—The amount of the unused credit which may be added under subparagraph (A) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the credit allowable under this section for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.".

(b) DEDUCTION FOR RESEARCH AND EXPERIMENTAL EXPENDITURES.—

(1) IN GENERAL.—Section 280C (relating to disallowance of deduction for portion of wages for which credit is claimed under section 40 or 44B) is amended by adding at the end thereof the following new subsection:

"(c) RULE FOR SECTION 44F CREDIT.—In the case of an individual or an electing small business corporation (within the meaning of section 1371(b)), no deduction shall be allowed for that portion of research and experimental expenditures (other than qualified higher education research and experimental expenditures) paid or incurred during the taxable year which is equal to the amount allowable as a credit under section 44F for such taxable year (determined without regard to section 44F(d)).".

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 280C is amended to read as follows:

"SEC. 280C. EXPENDITURES FOR WHICH CREDIT IS CLAIMED UNDER SECTION 40, 44B OR 44F.".

(B) The item relating to section 280C in the table of sections for part IX of subchapter B of chapter 1 is amended to read as follows:

"Sec. 280C. Expenditures for which credit is claimed under section 40, 44B, or 44F.".

(c) TECHNICAL AMENDMENTS RELATED TO CARRYOVER AND CARRYBACK OF CREDITS.—

(1) CARRYOVER OF CREDIT.—

(A) Paragraph (4) of section 55(c) (relating to credits) is amended by inserting "44F(e)(1)," before "53(b)".

(B) Subsection (c) of section 381 (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(28) CREDIT UNDER SECTION 44F.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 44F, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 44F in respect of the distributor or transferor corporation.".

(C) Section 383 (relating to special limitations on unused investment credits, work incentive program credits, new employee credits, alcohol fuel credits, foreign taxes, and capital losses), as in effect for taxable years beginning after June 30, 1982, is amended—

(i) by inserting "to any unused credit of the corporation under section 44F(e)(2)," after "44E(e)(2),", and

(ii) by inserting "research and experimental credits," after "alcohol fuel credits," in the section heading.

(D) Section 383 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) is amended—

(i) by inserting "to any unused credit of the corporation which could otherwise be carried forward under section 44F(e)(2)," after "44E(e)(2),", and

(ii) by inserting "research and experimental credits," after "alcohol fuel credits," in the section heading.

(E) The table of sections for part V of subchapter C of chapter 1 is amended by inserting "alcohol fuel credits, research and experimental credits," after "new employee credits," in the item relating to section 383.

(2) CARRYBACK OF CREDIT.—

(A) Subparagraph (C) of section 6511(d)(4) (defining credit carryback) is amended by striking out "and new employee credit carryback" and inserting in lieu thereof "new employee credit carryback, and research and experimental credit carryback".

(B) Section 6411 (relating to quick refunds in respect of tentative carryback adjustments) is amended—

(i) by striking out "or unused new employee credit" each place it appears and inserting in lieu thereof "unused new employee credit, or unused research and experimental credit";

(ii) by inserting "by a research and experimental credit carryback provided in section 44F(e)(2)," after "53(b)," in the first sentence of subsection (a);

(iii) by striking out "or a new employee credit carryback from" each place it appears and inserting in lieu thereof "a new employee credit carryback, or a research and experimental credit carryback from"; and

(iv) by striking out "work incentive program carryback)" and inserting in lieu thereof "work incentive program carryback, or, in the case of a research and experimental credit carryback, to an investment credit carryback, a work incentive program carryback, or a new employee credit carryback)".

(d) OTHER TECHNICAL AND CLERICAL AMENDMENTS.—

(1) Subsection (b) of section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44E" and inserting in lieu thereof "44E, and 44F".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44E the following new item:

"Sec. 44F. Credit for research and experimental expenditures.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980.

SEC. 212. RESEARCH AND EXPERIMENTAL EXPENDITURES DEFINED.

(a) IN GENERAL.—Section 174 (relating to deduction for research and experimental expenditures) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) RESEARCH AND EXPERIMENTAL EXPENDITURES DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'research and experimental expenditures' means amounts paid or incurred by the taxpayer—

"(A) for research for the purpose of discovering information which is potentially useful in—

"(i) the development of a new business item for the taxpayer, or

"(ii) bringing about a significant improvement in an existing business item of the taxpayer, or

"(B) in applying results obtained by research to develop a plan or design for a new business item for the taxpayer, or for a significant improvement in an existing business item of the taxpayer.

"(2) EXCLUSIONS.—The term 'research and experimental expenditures' does not include expenditures related to—

"(A) research in the social sciences or the humanities; and

"(B) to the extent that such expenditures are funded by a grant, contract or subcontract for research and development with any agency or instrumentality of any Federal, State, or local government.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) RESEARCH.—The term 'research' means a planned search or critical investigation, and includes experimentation.

"(B) BUSINESS ITEM.—The term 'business item' means a product, service, process, or technique for use by the taxpayer in a trade or business.

"(C) EXISTING.—The term 'existing' means a business item sold or used by the taxpayer in a trade or business before the taxpayer paid or incurred the amounts for research, or for the application of research results.

"(4) LIMITATION OF AMOUNTS SPENT FOR APPLIED RESEARCH.—No amount shall be taken into account under paragraph (1) as a research and experimental expenditure which is paid or incurred for research, or the application of research results, in connection with a business item after the point at which—

"(A) the new business item or significantly improved business item meets specific functional and economic requirements of the taxpayer for that item, or

"(B) the new or improved item is ready for manufacture, sale, or use.

"(5) PERSONS WITH COMMON INTERESTS.—For purposes of this subsection, a business item of any person with whom the taxpayer is required to aggregate expenditures under section 44F(d)(2) shall be treated as a business item of the taxpayer.".

(b) CONFORMING AMENDMENT.—Subsections (a) and (b) of section 174 are amended by striking out "research or experimental" each place such term appears and inserting in lieu thereof "research and experimental".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980.

TITLE III—RETIREMENT PLANS

SEC. 301. RETIREMENT SAVINGS PROVISIONS.

(a) GENERAL RULE.—Section 219 (relating to deduction for retirement savings) is amended to read as follows:

"SEC. 219. RETIREMENT SAVINGS.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction an amount equal to the qualified retirement contributions of the individual for the taxable year.

"(b) MAXIMUM AMOUNT OF DEDUCTION.—

"(1) IN GENERAL.—The amount allowable as a deduction under subsection (a) to any individual for any taxable year shall not exceed $2,000.

"(2) $1,000 LIMITATION IN THE CASE OF ACTIVE PARTICIPANTS IN EMPLOYER PLANS.—In the case of an individual who for any part of the taxable year is an active participant in a qualified employer plan, paragraphs (1)(A) and (3)(A)(ii)(II) shall be applied by substituting '$1,000' for '$2,000'.

"(3) SPECIAL RULES IN CASE OF SIMPLIFIED EMPLOYEE PENSIONS.—

"(A) LIMITATION.—If there is an employer contribution on behalf of the employee to a simplified employee pension, the limitation under paragraph (1) shall be equal to the sum of—

"(i) the amount contributed by the employer to the simplified employee pension and included in gross income (but not in excess of $7,500), and

"(ii) $1,750, reduced (but not below zero) by the amount described in clause (i).

"(B) CERTAIN LIMITATIONS DO NOT APPLY TO EMPLOYER CONTRIBUTION.—Paragraphs (1) and (2) of subsection (c) shall not apply with respect to the employer contribution to a simplified employee pension.

"(C) SPECIAL RULE FOR APPLYING SUBPARA-

GRAPH (A)(II).—In the case of an employee who is an officer, shareholder, or owner-employee described in section 408(k)(3), the $7,500 amount specified in subparagraph (A)(ii)(I) shall be reduced by the amount of tax taken into account with respect to such individual under subparagraph (D) of section 408(k)(3).

"(4) SPECIAL RULE FOR INDIVIDUAL RETIREMENT PLANS.—If the individual has paid any designated employee contributions during the taxable year, the amount of the qualified retirement contributions (other than employer contributions to a simplified employee pension) which are paid during the taxable year to an individual retirement plan and which are allowable as a deduction under subsection (a) for such taxable year shall not exceed—

"(A) the amount determined under paragraph (1) (as modified by paragraphs (2) and (3)) for such taxable year, reduced by

"(B) the sum of the employer contributions to a simplified employee pension plus the amount of such designated employee contributions.

"(c) CERTAIN INDIVIDUALS NOT ELIGIBLE.—

"(1) SELF-EMPLOYED INDIVIDUALS AND CERTAIN SHAREHOLDERS.—No deduction shall be allowed under subsection (a) to any individual for any taxable year—

"(A) if for any part of such taxable year such individual was an active participant in a qualified plan, and

"(B) if at any time during such year such individual was an employee (within the meaning of section 401(C)(1)), or a shareholder (within the meaning of section 408(k)(3)(B)(ii)), with respect to such plan.

"(2) INDIVIDUALS WHO HAVE ATTAINED AGE 70½.—No deduction shall be allowed under this section with respect to any qualified retirement contribution which is made for a taxable year of an individual if such individual has attained age 70½ before the close of such taxable year.

"(3) ALTERNATIVE DEDUCTION.—No deduction shall be allowed under this section for the taxable year if the individual claims the deduction allowed by section 220 for the taxable year.

"(d) OTHER LIMITATIONS AND RESTRICTIONS.—

"(1) RECONTRIBUTED AMOUNTS.—No deduction shall be allowed under this section with respect to a rollover contribution described in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 408(d)(3), or 409(b)(3)(C).

"(2) AMOUNTS CONTRIBUTED UNDER ENDOWMENT CONTRACT.—In the case of an endowment contract described in section 408(b), no deduction shall be allowed under this section for that portion of the amounts paid under the contract for the taxable year which is properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

"(e) DEFINITION OF RETIREMENT SAVINGS CONTRIBUTIONS; ETC.—For purposes of this section—

"(1) QUALIFIED RETIREMENT CONTRIBUTION.—The term 'qualified retirement contribution' means—

"(A) any designated employee contribution paid in cash by the individual during the taxable year, and

"(B) any amount paid in cash during the taxable year by or on behalf of such individual for his benefit to an individual retirement plan.

For purposes of the preceding sentence, the term 'individual retirement plan' includes a retirement bond described in section 409 only if the bond is not redeemed within 12 months of its issuance.

"(2) DESIGNATED EMPLOYEE CONTRIBUTION.—

"(A) IN GENERAL.—The term 'designated employee contribution' means any contribution—

"(i) which is made by an individual as an employee under a qualified employer plan, and

"(ii) which the individual designates as being taken into acconut under this subsection.

"(B) LIMITATION ON MANDATORY CONTRIBUTIONS.—

"(i) IN GENERAL.—No mandatory contribution shall be taken into account by any employee under subparagraph (A) for any taxable year.

"(ii) MANDATORY CONTRIBUTIONS.—For purposes of clause (i), the term 'mandatory contribution' has the meaning given to such term by section 411(c)(2)(C).

"(C) DESIGNATION.—An individual shall make a designation under subparagraph (A) with respect to any contribution under a qualified employer plan by notifying, not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof), the plan administrator of such plan that the individual is taking such contribution into account under this section. Any designation or notification referred to in the preceding sentence shall be made in such manner as the Secretary shall by regulations prescribe and, after such time for filing, such designation shall be irrevocable.

"(3) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' means—

"(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(B) an annuity plan described in section 403(a),

"(C) a qualified bond purchase plan described in section 405(a), and

"(D) any plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b).

"(4) PAYMENTS FOR CERTAIN PLANS.—The term 'amounts paid to an individual retirement plan' includes amounts paid for an individual retirement annuity or a retirement bond.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) COMPENSATION.—For purposes of this section, the term 'compensation' includes earned income as defined in section 401(c)(2).

"(2) MARRIED INDIVIDUALS.—The maximum deduction under subsection (b) shall be computed separately for each individual, and this section shall be applied without regard to any community property laws.

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an individual retirement plan on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

"(4) REPORTS.—The Secretary shall prescribe regulations which prescribe the time and the manner in which reports to the Secretary and plan participants shall be made by the plan administrator of a qualified employer plan receiving designated employee contributions.

"(5) EMPLOYER PAYMENTS.—For purposes of this title, any amount paid by an employer to an individual retirement plan shall be treated as payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income, whether or not a deduction for such payment is allowable under this section to the employee after the application of subsection (b).

"(6) EXCESS CONTRIBUTIONS TREATED AS CONTRIBUTION MADE DURING SUBSEQUENT YEAR FOR WHICH THERE IS AN UNUSED LIMITATION.—

"(A) IN GENERAL.—If for the taxable year the maximum amount allowable as a deduction under this section for contributions to an individual retirement plan exceeds the amount contributed, then the taxpayer shall be treated as having made an additional contribution for the taxable year in an amount equal to the lesser of—

"(i) the amount of such excess, or

"(ii) the amount of the excess contributions for such taxable year (determined under section 4973(b)(2) without regard to subparagraph (C) thereof).

"(B) AMOUNT CONTRIBUTED.—For purposes of this paragraph, the amount contributed—

"(i) shall be determined without regard to this paragraph, and

"(ii) shall not include any rollover contribution.

"(C) SPECIAL RULE WHERE EXCESS DEDUCTION WAS ALLOWED FOR CLOSED YEAR.—Proper reduction shall be made in the amount allowable as a deduction by reason of this paragraph for any amount allowed as a deduction under this section for a prior taxable year for which the period for assessing deficiency has expired if the amount so allowed exceeds the amount which should have been allowed for such prior taxable year.".

(b) TREATMENT OF DISTRIBUTIONS FROM EMPLOYER PLAN TO WHICH EMPLOYEE MADE DEDUCTIBLE CONTRIBUTIONS.—

(1) IN GENERAL.—Section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) SPECIAL RULES FOR DISTRIBUTIONS FROM QUALIFIED PLANS TO WHICH EMPLOYEE MADE DEDUCTIBLE CONTRIBUTIONS.—

"(1) TREATMENT OF CONTRIBUTIONS.—For purposes of this section and sections 402, 403, and 405, notwithstanding section 414(h), any deductible employee contribution made to a qualified employer plan shall be treated as an amount contributed by the employer which is not includible in the gross income of the employee.

"(2) ADDITIONAL TAX IF AMOUNT RECEIVED BEFORE AGE 59½.—If—

"(A) any amount is received from a qualified employer plan to which the employee made one or more deductible employee contributions,

"(B) such amount is received by the employee before the employee attains the age of 59½, and

"(C) such amount is not received by reason of such employee's becoming disabled (within the meaning of subsection (m)(7)),

then the employee's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 10 percent of the amount so received to the extent that such amount is includible in gross income, and also to the extent that the amount so includible (when added to the amounts previously received under the plan which were subject to tax under this paragraph) does not exceed the aggregate deductible employee contributions made by the employee to such plan. For purposes of this title, any tax imposed by this paragraph shall be treated as a tax imposed by subsection (m)(5)(B).

"(3) AMOUNTS CONSTRUCTIVELY RECEIVED.—For purposes of this subsection, rules similar to the rules provided by subsection (m)(4) shall apply.

"(4) ROLLOVER AMOUNTS NOT TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to any amount which is not includible in gross income under section 402(a)(5), 402(a)(7), or 403(a)(4).

"(B) SPECIAL RULES.—For purposes of sections 402(a)(5), 402(a)(7), 403(a)(4), 408(d)(3), and 409(b)(3)(C), the Secretary shall prescribe regulations providing for such allocations and separations of amounts attributable to deductible employee contribu-

tions, and for such other rules, as may be necessary to insure that the deductible employee contributions do not become eligible for additional tax benefits (or freed from limitations) through the use of rollovers.

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'deductible employee contribution' means any designated employee contribution (as defined in section 219(e)(2)).

"(ii) SPECIAL RULE.—If the amount of the designated employee contributions taken into account under section 219 for any taxable year exceeds the amount of the deduction allowable by section 219 for such taxable year (or where section 219(b)(3) applies, the amount specified in section 219(b)(3)(A)(ii)(II) as modified by section 219(b)(2)), each of such designated employee contributions shall be treated as a deductible employee contribution only to the extent that it does not exceed an amount which bears the same ratio to the amount of the deduction so allowable (or the amount so specified) as such contribution bears to the aggregate of such designated employee contributions.

"(B) AGGREGATE DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—The term 'aggregate deductible employee contributions' includes the deductible employee contributions taken into account under section 219 for the taxable year in which the amount is received.

"(C) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' has the meaning given to such term by section 219(e)(3).".

(2) 10-YEAR AVERAGING AND CAPITAL PROVISIONS NOT TO APPLY.—Subparagraph (D) of section 402(e)(4) (relating to total taxable amount) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, subsection (a)(2), and section 403(a)(2), the total taxable amount (determined without regard to this sentence) shall be reduced by the amount by which the aggregate deductible employee contributions under the plan (as determined under section 72(o)(5)) exceed the sum of the amounts previously distributed under the plan which were includible in gross income.".

(c) ESTATE AND GIFT TAX EXCLUSION.—

(1) ESTATE TAX.—Subsection (c) of section 2039 (relating to exemption of annuities under certain trusts and plans) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, any deductible employee contributions (as determined under paragraph (5) of section 72(o) as of the date of the decedent's death) shall be considered as made by a person other than the decedent.".

(2) GIFT TAX.—Subsection (b) of section 2517 (relating to transfers attributable to employee contributions) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, any deductible employee contributions (as determined under paragraph (5) of section 72(o) as of the date of the transfer) shall be considered as made by a person other than the employee.".

(d) AMENDMENT OF SECTION 220.—Subparagraph (C) of section 220(b)(1) (relating to maximum deduction) is amended by striking out "$1,750" and inserting in lieu thereof "$2,000".

(e) CONFORMING AMENDMENTS TO INCREASE IN IRA LIMITATIONS.—

(1) The following provisions are each amended by striking out "$1,500" each place it appears and inserting in lieu thereof "$2,000":

(A) Section 408(a)(1) (defining individual retirement account).

(B) Section 408(b) (defining individual retirement annuity).

(C) Section 408(j) (relating to increase in maximum limitations for simplified employee pensions).

(D) Section 409(a)(4) (defining retirement bond).

(2) Subparagraph (A) of section 408(d)(5) is amended by striking out "$1,750" and inserting in lieu thereof "$2,250".

(3) Subparagraph (A) of section 409(b)(3) (relating to redemption within 12 months) is amended—

(A) by inserting "or 220" after "section 219", and

(B) by adding the following sentence at the end thereof: "The preceding sentence shall not apply to the extent that the bond was purchased with a rollover distribution described in subparagraph (C) of this paragraph or in section 402(a)(5), 402(a)(7), 403(a)(4), or 408(d)(3).".

(4) Subsection (a) of section 4973 is amended by striking out the last sentence and inserting in lieu thereof the following: "The tax imposed by this subsection shall be paid by such individual.".

(5) Subparagraph (C) of section 4973(b)(2) is amended by striking out "sections 219(c)(5)" and inserting in lieu thereof "section 219(f)(7)".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) ESTATE AND GIFT TAX PROVISIONS.—

(A) The amendment made by subsection (c)(1) shall apply to the estates of decedents dying after December 31, 1981.

(B) The amendment made by subsection (c)(2) shall apply to transfers after December 31, 1981.

SEC. 302. INCREASE IN AMOUNT OF DEDUCTION FOR CERTAIN RETIREMENT PLANS.

(a) SELF-EMPLOYED INDIVIDUAL RETIREMENT PLANS.—

(1) IN GENERAL.—Subsection (e) of section 404 (relating to special limitations for self-employed individuals) is amended—

(A) by striking out "$7,500" in paragraphs (1) and (2) and inserting in lieu thereof "the deductible amount",

(B) by adding at the end thereof the following new paragraph:

"(5) DEDUCTIBLE AMOUNT DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'deductible amount' means an amount equal to either—

"(i) $7,500, or

"(ii) in the case of a plan which meets the requirements of subparagraph (B) for the plan year, $15,000.

"(B) REQUIREMENTS.—A plan meets the requirements of this subparagraph for the plan year if—

"(i) the plan administrator elects for the plan year and all subsequent plan years the application of section 72(m)(5) to all employees (within the meaning of section 401(c)(1)) who participate in the plan, and

"(ii) for the plan year, the plan provides that, after not more than 3 years of service, each participant has a right to 100 percent of his accrued benefit under the plan which is nonforfeitable (within the meaning of section 411) at the time such benefit accrues.".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (e) of section 401 is amended by striking out "$7,500" and inserting in lieu thereof "the deductible amount described in section 404(e)(5)".

(B) Subparagraph (A) of section 401(j)(2) (relating to benefit plans for self-employed individuals and shareholder-employees) is amended by striking out "$50,000" and inserting in lieu thereof "$50,000 or, in the case of a plan described in section 404(e)(5)(B), $100,000".

(3) Subparagraph (B) of section 1379(b)(1) (relating to certain qualified pension, etc., plans) is amended by striking out "$7,500" and inserting in lieu thereof "the deductible amount described in section 404(e)(5)".

(b) SIMPLIFIED EMPLOYEE PENSIONS.—

(1) IN GENERAL.—Paragraph (7) of section 219(b) (relating to simplified employee pensions) is amended by striking out "$7,500" each place it appears and inserting in lieu thereof "$15,000".

(2) CONFORMING AMENDMENTS.—Section 408 of such Code (relating to individual retirement accounts) is amended—

(A) by striking out "$7,500" in subsection (d)(5)(A) and inserting in lieu thereof "$15,000", and

(B) by striking out "$7,500" in subsection (j) and inserting in lieu thereof "$15,000".

(c) APPLICATION OF PENALTY TO RETIREMENT PLANS OF SELF-EMPLOYED INDIVIDUALS.—Paragraph (5) of section 72(m) (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended—

(1) by striking out "an owner-employee." each place it appears and inserting in lieu thereof "a qualified employee,",

(2) by striking out "owner-employee" in the caption thereof and inserting in lieu thereof "owner-employee and self-employed individuals", and

(3) by adding at the end thereof the following new subparagraph:

"(C) For purposes of this paragraph, the term 'qualified employee' means—

"(i) any owner-employee, or

"(ii) any employee (within the meaning of section 401(c)(1)) who participates in a plan whose plan administrator elects (at such time and in such manner as the Secretary prescribes by regulations) the application of this paragraph to all employees (within the meaning of section 401(c)(1)) who participate in such plan.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

SEC. 303. TERMINATION OF COST-OF-LIVING ADJUSTMENTS FOR CERTAIN LIMITATIONS OF QUALIFIED PLANS.

Subsection (d) of section 415 (relating to limitations on benefits and contribution under qualified plans) is amended by adding at the end thereof the following new paragraph:

"(3) NO ADJUSTMENT AFTER 1981.—No adjustment shall be made under paragraph (1) after December 31, 1981, and the amounts in effect on such date shall remain in effect for all years beginning after such date.".

SEC. 304. CERTAIN AMOUNTS CONSTRUCTIVELY RECEIVED UNDER EMPLOYEE PLANS OR ANNUITIES BY SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (4) of section 72(m) (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by striking out "owner-employee" each place it appears and inserting in lieu thereof "employee (within the meaning of section 401(c)(1))".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1981.

By Mr. HEINZ:

S. 1320. A bill to amend the Internal Revenue Code of 1954 to modify the excise tax on trucks, buses, tractors, and so forth, and for other purposes; to the Committee on Finance.

MOTOR VEHICLE TAX ACT OF 1981

● Mr. HEINZ. Mr. President, today, I am introducing a bill designed to provide financial relief to hard-pressed truck dealers by amending present Federal truck excise tax provisions. The major change involves shifting the point of collection of the tax from the time of transfer between the wholesaler to the dealer to the time

of sale to the ultimate customer by the dealer.

The 10-percent Federal excise tax levied against trucks, and the 8-percent tax levied against truck parts, has for a long time now been an area of financial concern to the many small business heavy-duty truck dealers of this Nation. Under current law, this tax is imposed on the manufacturer at the time the truck is transferred to the dealer. This means the manufacturer includes the cost of the tax in his price, passing the tax on to the dealer in the process. Therefore, the dealer must finance not only the wholesale price of the vehicle, but must also carry the cost of a substantial excise tax. With today's heavy-duty "over the road" trucks costing between $50,000 and $75,000, the tax amounts to an extra $5,000 to $7,500 per truck.

Historically, truck dealers pay between 1 and 2 percent over prime to finance their inventory. At today's interest rates, inventory financing for the small truck dealer is a tremendous burden, and current Federal excise tax rules compound the problem. If a dealer were required to pay the excise tax at the time of retail transfer, he would be able to finance 11 trucks for the same amount that he now finances 10. Nationwide, the interest cost, to the dealer, of financing this tax reached into the tens of millions of dollars in 1980.

As a result of unprecedented interest rates, truck sales have become as depressed as auto sales, if not more so. These high interest rates have left hundreds of dealers perilously close to bankruptcy. The bill that I am introducing today is designed to provide immediate and much needed assistance to these dealers without altering the amount of revenue raised by the tax.

My bill would make the following changes in existing law:

First, the point of tax liability and collection would be the time of the first retail sale of trucks, trailers, or their parts, instead of the time of their wholesale transfer.

Second, to avoid increasing the Federal excise tax by taxing a dealer's profit margin, a compensation change in the tax base is made. Under existing law, the tax equals 10 percent on the wholesale price of trucks and trailers and 8 percent of the wholesale price of parts and accessories. Under this proposal, the tax would be computed on 90 percent of the actual retail sales price of these vehicles and on 75 percent of the actual retail sales price of their parts and accessories. The revenue raised from the tax under existing law and under this proposal is the same until fiscal year 1985 when the excise tax drops to 5 percent.

Third, a similar change is proposed for the treatment of the excise tax on heavy-duty truck tires, currently paid by the tire manufacturer at the time they are sold to the truck manufacturer. Under my bill, this tax is also collected at the time of the first retail sale of a truck or trailer. Should the Internal Revenue Service identify a need to segregate that portion of the excise tax attributable to tires, it would do so by regulation.

This legislation will not solve all the problems confronting heavy-duty truck dealers. However, it will provide them immediate, significant relief from their current financial bind brought about from sluggish sales and high interest rates.

I believe that this bill's concepts are sound, and I urge my colleagues to give it their consideration and more importantly their support.

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. 1320

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 "Motor Vehicle Tax Act of 1981".

SEC. 2. (a) Section 4061 of the Internal Revenue Code of 1954 is amended by inserting the following at the end thereof:

"(c) SALES AFTER ENACTMENT OF MOTOR VEHICLE TAX ACT OF 1981.—The tax imposed by this section shall not apply to articles sold by the manufacturer, producer, or importer after the first day of the first taxable quarter which commences more than 30 days after the date of the enactment of the Motor Vehicle Tax Act of 1981."

(b) The chapter heading for chapter 31 of subtitle D of the Internal Revenue Code of 1954 is amended to read as follows:

"Chapter 31—RETAILERS EXCISE TAXES"

(c) Chapter 31 of such subtitle D is amended by inserting the following immediately before section 4041:

"Subchapter A—Trucks, Buses, Tractors, Etc.

"Sec. 4001. Imposition of tax.
"Sec. 4002. Articles classified as parts.
"Sec. 4003. Exemptions.
"Sec. 4004. Determination of price.
"Sec. 4005. Use considered sale.
"Sec. 4006. Certain tax free sales.
"Sec. 4007. Registration.

"SEC. 4001. IMPOSITION OF TAX.

"(a) TRUCKS, BUSES, TRACTORS, ETC.—

"(1) TAX IMPOSED.—There is hereby imposed upon the first sale at retail of the following articles (including in each case parts or accessories therefor sold on or in connection therewith or with the sale thereof) a tax of 10 percent of the wholesale price of the article (determined under subsection (c)), except that on and after October 1, 1984, the rate shall be 5 percent:

"Automobile truck chassis.
"Automobile truck bodies.
"Automobile bus chassis.
"Automobile bus bodies.
"Truck and bus trailer and semitrailer chassis.
"Truck and bus trailer and semitrailer bodies.
"Tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

A sale of an automobile truck, bus, truck, or bus trailer or semitrailer shall, for the purposes of this subsection, be considered to be a sale of a chassis and of a body enumerated in this subsection.

"(2) EXCLUSION FOR LIGHT-DUTY TRUCKS, ETC.—The tax imposed by paragraph (1) shall not apply to a sale of the following articles suitable for use with a vehicle having a gross vehicle weight of 10,000 pounds or less (as determined under regulations prescribed by the Secretary)—

"Automobile truck chassis.
"Automobile truck bodies.
"Automobile bus chassis.
"Automobile bus bodies.
"Truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer having a gross vehicle weight of 10,000 pounds or less (as so determined).

"(b) PARTS AND ACCESSORIES.—

"(1) Except as provided in paragraph (2), there is hereby imposed upon the first retail sale of parts or accessories (other than tires and inner tubes) for any of the articles enumerated in subsection (a)(1) a tax equivalent to 8 percent of the wholesale price of the article (determined under subsection (c)), except that on and after October 1, 1984, the rate shall be 5 percent.

"(2) No tax shall be imposed under this subsection upon any part or accessory which is suitable for use (and ordinarily is used) on or in connection with, or as a component part of, any chassis or body for a passenger automobile, any chassis or body for a trailer or semitrailer suitable for use in connection with a passenger automobile, or a house trailer.

"(c) WHOLESALE PRICE.—For purposes of the tax imposed under this section—

"(1) the wholesale price of an article taxable under subsection (a) shall be deemed to be 90 percent of the actual retail selling price of such article; and

"(2) the wholesale price of an article taxable under subsection (b) shall be deemed to be 75 percent of the actual retail selling price of such article.

"SEC. 4002. ARTICLES CLASSIFIED AS PARTS.

"For the purposes of section 4001, spark plugs, storage batteries, leaf springs, coils, timers, and tire chains, which are suitable for use on or in connection with, or as component parts of, any of the articles enumerated in section 4001(a), shall be considered parts or accessories for such articles, whether or not primarily adapted for such use.

"SEC. 4003. EXEMPTIONS.

"(a) SPECIFIED ARTICLES.—The tax imposed under section 4001 shall not apply in the case of any article specified in section 4063(a).

"(b) EXEMPT PARTS.—Under regulations prescribed by the Secretary—

"(1) the tax imposed under section 4001 (b) shall not apply in the case of rebuilt parts or accessories; and

"(2) the tax imposed by section 4001(b) shall not apply to the sale of any article on or in connection with the sale of a light-duty truck as described in section 4001(a)(2) or which is sold for use by the purchaser on or in connection with an automobile bus.

"(c) ARTICLES TAXED UNDER MANUFACTURERS EXCISE TAX.—The tax imposed under section 4001 shall not apply in the case of any article on which a tax was paid under section 4061, as determined under regulations prescribed by the Secretary. Such regulations shall specify methods for identifying the articles which are exempt under this subsection and may include methods for apportioning inventory between articles which are exempt and articles which are not exempt.

"SEC. 4004. DETERMINATION OF PRICE.

"(a) CONTAINERS, PACKAGING, AND TRANSPORTATION CHARGES.—In determining, for the purposes of section 4001(c), the actual retail selling price for which an article is sold, there shall be included any charge for coverings and containers of whatever nature, and any charge incident to placing the article in condition packed ready for shipment, but there shall be excluded the amount of tax imposed by this subchapter, whether or not stated as a separate charge. A transportation, delivery, insurance, installation, or other charge (not required by the foregoing sentence to be included) shall be excluded from the price only if the amount thereof is established to the satisfaction of the Sec-

retary in accordance with the regulations. There shall also be excluded, if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof, or the District of Columbia, whether the liability for such tax is imposed on the vendor or the vendee.

"(b) CONSTRUCTIVE SALE PRICE.—If an article is—

"(1) sold on consignment, or

"(2) sold (otherwise than through an arm's length transaction) at less than the fair market price,

the actual retail selling price for purposes of section 4001(c) shall be computed on the basis of the retail price for which such articles are sold, in the ordinary course of trade as determined by the Secretary.

"(c) LEASES, PARTIAL PAYMENTS, INSTALLMENTS, ETC.—The provisions of subsections (c), (d), and (f) of section 4216 and subsections (a), (b), (c), (d)(1), and (d)(2) of section 4217 shall apply for purposes of this subchapter in the same manner as such provisions apply for purposes of chapter 32.

"SEC. 4005. USE CONSIDERED SALE.

"If any manufacturer, producer, or importer uses an article (otherwise than as material in the manufacture or production of, or as a component part of, another article taxable under this subchapter), then he shall be liable for tax under this subchapter in the same manner as if such article were sold at retail by him. In any such case, the actual retail selling price for purposes of section 4001(c) shall be computed on the basis of the price at which such or similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary

"SEC. 4006. CERTAIN TAX FREE SALES.

"(a) GENERAL RULE.—Under regulations prescribed by the Secretary, no tax shall be imposed under section 4001 on the sales of an article—

"(1) for export,

"(2) to a State or local government for the exclusive use of a State or local government, or

"(3) to a nonprofit educational organization for its exclusive use,

but only if such exportation or use is to occur before any other use.

"(b) PROOF OF EXPORT.—Where an article has been sold free of tax under subsection (a) for export, or for resale by the purchaser to a second purchaser for export, subsection (a) shall cease to apply in respect of such sale of such article unless, within the 6-month period which begins on the date of the sale (or, if earlier, on the date of shipment), the seller receives proof that the article has been exported.

"(c) DEFINITIONS.—For purposes of this section—

"(1) The term 'export' includes shipment to a possession of the United States.

"(2) The term 'State or local government' means any State, any political subdivision thereof, or the District of Columbia.

"(3) The term 'nonprofit educational organization' means an educational organization described in section 170(b)(1)(A)(ii) which is exempt from income tax under section 501(a). The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

"(d) RETAIL SELLER RELIEVED FROM LIABILITY IN CERTAIN CASES.—In the case of any article sold free of tax under this section (other than a sale to which subsection (b) applies), if the retail seller in good faith accepts a certification by the purchaser that the article will be used in accordance with the applicable provisions of law, no tax shall thereafter be imposed under this subchapter in respect of such sale by such retail seller.

"SEC. 4007. REGISTRATION.

"(a) GENERAL RULE.—Except as provided in subsection (b), section 4006 shall not apply with respect to the sale of any article unless the retail seller, the first purchaser, and the second purchaser (if any) are all registered under this section. Registration under this section shall be made at such time, in such manner and form, and subject to such terms and conditions, as the Secretary may by regulations prescribe. A registration under this section may be used only in accordance with regulations prescribed under this section.

"(b) EXCEPTIONS.—

"(1) Subsection (a) shall not apply to any State or local government in connection with the purchase by it of any article if such State or local government complies with such regulations relating to the use of exemption certificates in lieu of registration as the Secretary shall prescribe to carry out the purpose of this section.

"(2) Subject to such regulations as the Secretary may prescribe for the purpose of this section, in the case of any sale or resale for export, the Secretary may relieve the purchaser or the second purchaser, or both, from the requirement of registering under this section.

"(3) Subparagraph (a) shall apply to purchases and sales by the United States only to the extent provided by regulations prescribed by the Secretary.

"(4) The provisions of this section may be extended to and made applicable with respect to, the exemptions provided in section 4003(a) and section 4003(b)(2) to the extent provided by regulations prescribed by the Secretary.

"Subchapter B—Special Rules."

(c) Section 4221(e) of such Code is amended by adding the following new paragraph at the end thereof:

"(7) TIRES AND TUBES SOLD FOR USE ON VEHICLES TAXABLE UNDER SECTION 4001.—Under regulations prescribed by the Secretary, the taxes imposed under section 4071 shall not apply to any article which is sold for use by the purchaser, or by any subsequent purchaser, on any article described in section 4001(a)(1)."

(d)(1) Paragraph (1) of section 6412(a) of such Code (relating to floor stocks refunds) is amended—

(A) by striking out "4061(a)(1),"; and

(B) by striking out "TRUCKS, TIRES" in the paragraph heading and inserting in lieu thereof "TIRES".

(2) Section 6412(c) of such Code is amended by striking out "4061, 4071," and inserting in lieu thereof "4071".

(e)(1) Section 6416 of such Code is amended by striking out "chapter 31 (special fuels)" in paragraph (1) of subsection (a) and substituting "chapter 31 (retailer's excise taxes".

(2) Section 6416(b)(1) of such Code is amended by inserting "or by section 4001" after "by chapter 32".

(3) Section 6416(b)(2) of such Code is amended by adding the following at the end thereof: "The tax paid by a retail seller under section 4001 in respect of any article shall be deemed an overpayment if the tax did not apply to such article by reason of section 4003 or if such article was sold free of tax by reason of section 4006.

(4) Section 6416(h) is amended by inserting "(or the retail seller in the case of the tax imposed under section 4001)" before "may be identified" and by inserting "(or under section 4001)" after "under chapter 32".

(f)(1) Section 209(c)(1) of the Highway Revenue Act of 1956 is amended by—

(A) inserting "and under section 4001(a)(1) (retailer's excise tax on trucks, buses, etc.)" before the semicolon at the end of subparagraph (C); and

(B) inserting "and 4001(b)" after "4061(b)" in subparagraph (H).

(2) Section 209(c)(3) of such Act is amended by—

(A) striking out "4061(b)" and substituting "4001(b)" in subparagraph (A); and

(B) striking out "4061" and substituting "9001" in subparagraph (B).

(3) Paragraph (4) of section 409(f) of such Act is amended by striking out subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

SEC. 3. The amendments made by section 2 of this Act shall take effect on the first day of the first taxable quarter which commences more than 30 days after date of the enactment of this Act.●

By Mr. COCHRAN:

S. 1321. A bill to provide access to small businesses and other persons, of information concerning rules applicable to such businesses or persons; to the Committee on the Judiciary.

SMALL BUSINESS REGULATORY INFORMATION ACT OF 1981

Mr. COCHRAN. Mr. President, there is growing sentiment throughout the country that Federal regulation of small businesses is counterproductive. Without question, a serious problem exists regarding the ability of businesses to plan for the future because of the regulatory maze that has been created.

We must make the Federal Government more responsive to small businesses which cannot afford a staff of regulatory experts to decipher applicable rules and regulations. Many times, it is next to impossible even to determine which rules are applicable.

In an effort to rectify this problem, I am introducing the Small Business Regulatory Information Act of 1981. This act will require each Federal agency to publish in the Federal Register, along with each rule proposed or promulgated, the standard industrial classification (SIC) for all affected industries. Within 5 years of enactment, all previously published regulations must be amended to include appropriate SIC numbers.

The SIC system is a classification system administered by the Information and Regulatory Affairs Office at OMB which assigns a code, or SIC number, to every business unit or establishment on the basis of its primary activities.

A Small Business Information Center will be established in the Office of the Federal Register which will, upon request, provide businesses with a listing of the rules that apply to them based on their SIC number.

Thus a business will be able to look at a proposed rule and at previously published rules and tell at a glance if the rule is applicable, or the Small Business Information Center can be contacted for this information.

This bill is designed simply to insure that small businesses are able to conduct their business planning in a rational manner and in reliance on the proper information.

Mr. President, I ask unanimous con-

sent that the bill be printed in the RECORD in its entirety.

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

S. 1321

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 "Small Business Regulatory Information Act of 1981".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. The Congress hereby finds that there is a serious problem regarding the ability of business to plan for the future because of the regulatory maze it finds itself in; and, with over seven thousand new rules promulgated each year, notification of the application of these rules to a particular industry or industries is a necessary responsibility of the Federal Government. The Congress hereby determines that small businesses and other persons should have access to a central information source in order to conduct their future business planning in a coordinated and rational fashion, and in reliance on the proper information. It is the policy of the Congress to ensure that business is able to function in a stable and predictable environment relative to Government Actions.

SEC. 3. For the purposes of this Act—

(a) the term "agency" has the same meaning as in section 552(e) of title 5, United States Code;

(b) the term "rule" has the same meaning in section 551(4) of such title, except that such term does not include a rule issued with respect to (A) a military or foreign affairs function of the United States, (B) agency management or personnel, or (C) agency organization, procedure, or practice; and

(c) the term "SIC" means the standard industrial classification for industries as administered by the Office of Information and Regulatory Affairs.

SEC. 4. Each agency shall publish in the Federal Register with each rule proposed or promulgated after the date of enactment of this Act, the SIC code for such industry to which the rule applies.

SEC. 5. The Director of the Federal Register ("Director") shall establish in the Office of the Federal Register, a Small Business Information Center ("Center"). Upon request, the Center shall provide to small businesses and other persons a listing of the rules which apply to any industry or industries within a specified standard industrial classification:

(a) within five years after the date of enactment of this Act, the head of each agency shall ensure that each proposed and final rule of the agency contains the current SIC code for each industry or industries to which the rule applies;

(b) each year after the date of enactment, the head of each agency shall amend at least 20 per centum of the rules of the agency to include the SIC code and shall complete the amendments within five years; and

(c) the head of each agency shall transmit such rules to the Director. The Director shall compile the rules received and incorporate them into the general index to the Code of Federal Regulations required by section 1510(b) of title 44, United States Code.

By Mr. TSONGAS (for himself and Mr. KENNEDY):

S. 1323. A bill to amend the Internal Revenue Code of 1954 with respect to the residential energy and investment tax energy credits, and for other purposes; to the Committee on Finance.

COMMERCIAL AND MULTIFAMILY ENERGY TAX CREDIT ACT

Mr. TSONGAS. Mr. President, today I am introducing legislation to broaden and improve the energy tax credits provided by the Internal Revenue Code. Energy tax credits provide a simple and effective mechanism to encourage investment in conservation. They depend upon consumers' decisions in the marketplace rather than a Federal bureaucracy. They are an accepted part of the administration's energy policy.

Unfortunately, there are problems with the existing energy tax credits. The credits exclude important segments of our economy. Some expire next year and others have a reduced effect due to inflation. These weaknesses help keep America from getting the optimal amount of energy conservation—which our economy and security require. The Commercial and Multifamily Energy Tax Credit Act of 1981 addresses these problems.

The current statute on energy tax credits for businesses is too limited. It covers complex investments which have specific industrial applications, such as cogeneration equipment, combustible gas recovery systems, and modifications to alumina electrolytic cells. In addition, the IRS has, through regulations, restricted credits on the few listed properties that commercial facilities can use—such as automatic energy control systems—to industrial applications. The legislation I am introducting today will end these regulatory limits. It will also make commercial facilities eligible to receive tax credits for insulation, storm windows, and other useful energy conservation investments. Further, it would increase the credit to 20 percent.

The existing residential energy tax credits exclude owners of rental housing. At present, neither the renter nor the rental property owner has an effective incentive to invest in energy efficiency. The average renter does not stay long enough to consider the investment warranted. The landlord often finds he can pass along most or all of the energy costs to renters. Because of their ownership interest, landlords are the most likely party to invest in energy conservation. Therefore, this bill extends the residential energy tax credits to them.

Both of these changes are vital to the energy security of our Nation and the welfare of our citizens. In 1977 the commercial sector used 10 quads of energy; rental housing used another five quads. Combined, this is 20 percent of our Nation's total energy demand—roughly 7.5 million barrels of oil equivalent per day. With cost-effective investments in energy conservation improvements, half of this energy could be saved. This represents two-thirds of all the oil we now import. Yet, because of regulatory restrictions and exclusions in the existing tax credits, this potential is virtually untapped today

In the New England States, the need for energy conservation improvements in commercial establishments and rental housing is particularly acute.

As a percentage of total energy used, the commercial sector in Massachusetts is 2½ times larger than that of the Nation as a whole. The percentage used in Massachusetts residences is almost two times larger than the national average. Further, in Massachusetts 40 percent of the residences are rental units.

For the New England States overall, 25 percent of the housing stock is multifamily. Of these, 60 percent were built before 1940 with little regard for energy efficiency.

In 1978, imported oil accounted for 74 percent of New England's energy compared to 20 percent nationwide. This represented a $16 billion cash outflow to foreign producers from New England

The rising costs of energy demands that we remove the IRS regulatory barriers to energy conservation in these sectors of our economy. We cannot afford not to.

As time passes, inflation and expiration dates threaten the energy tax credits. The Commercial and Multifamily Energy Tax Credit Act moves the termination date of the business energy tax credit from December 31, 1982, to December 31, 1985. It also adjusts the expenditure limits on the residential credits to compensate for inflation since the credits began in 1978. These changes will help maintain the effectiveness of the energy tax credits.

This bill is consistent with other bills filed in this area, such as Senator WALLOP's Industrial Energy Security Tax Credit Act (S. 750), Senator KENNEDY's Energy Productivity Act of 1981, (S. 787), and Senator DURENBURGER's Commercial Business Energy Tax Credit Act (S. 1288). I hope that the Finance Committee will hold hearings on these bills and on the issue of energy conservation tax credits for the industrial, commercial, and multifamily sectors.

Mr. President, I believe the committee will find that there is a clear need for such legislation. Modest economic incentives through the tax code can help insure that the investment that this Nation so desperately needs is done in an efficient and resource-conserving manner.

Mr. President, I ask unanimous consent that the full text of the Commercial and Multifamily Energy Tax Credit Act and a summary of its provisions be printed in the RECORD.

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

S. 1323

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial and Multifamily Energy Tax Credit Act".

SEC. 2. DEFINITION OF SPECIALLY DEFINED ENERGY PROPERTY.

(a) HOTELS, OFFICE BUILDINGS, RETAIL AND WHOLESALE TRADE FACILITIES, AND OTHER FACILITIES INCLUDED.—Paragraph (5) of section 48(1) of the Internal Revenue Code of 1954 (defining specially defined energy property) is amended by adding at the end thereof the following new sentence: "In the case of any property installed in connection with any commercial facility (including a hotel, office building, educational facility, health care facility, or retail or wholesale trade facility), any reduction of the amount of energy consumed in connection with such facility shall be treated as a reduction of energy consumed in a commercial process.".

(b) ADDITIONAL ITEMS.—Paragraph (5) of section 48(1) of such Code is amended by striking out "or" at the end of subparagraph (L), by redesignating subparagraph (M) as subparagraph (V), and by inserting

after subparagraph (I) the following new subparagraphs:

"(M) insulating material or coating installed in connection with a building, pipe, duct, container, or window,

"(N) a storm or thermal window or door for the exterior of a building, a second entry door, or a revolving door,

"(O) caulking or weatherstripping of an exterior door or window,

"(P) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(Q) a device for modifying flue openings designed to increase the efficiency of operation of the heating system,

"(R) an electrical or mechanical furnace ignition system which replaces a gas pilot light,

"(S) an electrostatic precipitator, a charcoal filter, or any other air cleaner,

"(T) an automatic energy saving setback thermostat,

"(U) replacement or modification of heating distribution, cooling, ventilating, or lighting systems which increase their energy efficiency, or"

(c) The table contained in clause (1) of section 46(a)(2)(C) of such Code is amended by inserting after the last item the following new item:

"VII. SPECIALLY DEFINED ENERGY PROPERTY.—Property described in section 48(1)(5)—20 percent—June 30, 1981—December 31, 1985."

(d) EFFECTIVE DATES.—

(1) The amendment made by subsections (b) and (c) shall take effect as if included in the amendments made by section 301(b) of the Energy Tax Act of 1978.

(2) The amendments made by subsection (b) shall apply to periods after June 30, 1981, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

SEC. 3. EXTENSION OF RESIDENTIAL ENERGY CREDIT TO LESSORS.

(a) IN GENERAL.—Section 44C(d) of the Internal Revenue Code of 1954 (relating to special rules) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraphs:

"(5) EXPENDITURES BY LESSORS.—

"(A) LESSORS.—Notwithstanding any provision of this section requiring the taxpayer to use a dwelling unit as a residence, if any taxpayer who is the lessor of a dwelling unit makes expenditures which, but for such provision, constitute energy conservation or renewable energy source expenditures, then, for purposes of this section, the lessor shall be treated as having made energy conservation or renewable energy source expenditures in connection with such dwelling unit.

"(B) AMOUNT OF CREDIT.—The amount of the credit allowed under subsection (a) in the case of a lessor shall be the amount otherwise determined under this section, except that in any case in which the depreciation allowance under section 167 (or amortization in lieu of depreciation) is allowed as a deduction with respect to the dwelling unit, subsection (b) shall be applied—

"(i) by substituting '10 percent' for '15 percent' in paragraph (1), and

"(ii) by substituting '30 percent' for '40 percent' in paragraph (2).

"(C) WHEN EXPENDITURE MADE.—An expenditure with respect to an item shall be treated as made when the original installation of such item is completed.

"(D) COORDINATION WITH OTHER PROVISIONS.—No credit or deduction shall be allowed under any other provision of this chapter with respect to any amount for which a credit has been allowed under subsection (a).".

(b) CONFORMING AMENDMENT.—Subsection (a) of section 44C of such Code (relating to general rule) is amended by striking out "In the case of an individual, there" and inserting in lieu thereof "There".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made after June 20, 1981 in taxable years ending after such date.

SEC. 4. AMOUNT OF RESIDENTIAL ENERGY CREDIT.

(a) IN GENERAL.—Subsection (b) of section 44C of the Internal Revenue Code of 1954 (defining qualifying expenditures) is amended—

(1) by striking out "$2,000" in paragraph (1) and inserting in lieu thereof "$3,000," and

(2) by striking out "$10,000" in paragraph (2) and inserting in lieu thereof "$15,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after June 30, 1981.

SEC. 5. PERIOD TO WHICH ENERGY INVESTMENT CREDIT APPLIES.

Subclause (I) of section 46(a)(2)(C)(i) of the Internal Revenue Code of 1954 (relating to energy percentage) is amended by striking out "1982" and inserting in lieu thereof "1985".

BRIEF SUMMARY OF PROVISIONS

Section 2. Energy tax credits for commercial facilities.—Makes commercial properties eligible for energy conservation investments that the tax code lists in "Specially Defined Energy Property," such as automatic energy control systems. It also adds additional properties to the list of Specially Defined Energy Property. These properties include: materials to insulate buildings, pipes and containers, storm windows, weatherstripping, and changes in heating, cooling, ventilating, and lighting systems to improve energy efficiency. Finally, it increases the credit to 20 percent.

Section 3. Extension of residential credits to owners of rental housing.—Extends both the energy conservation and renewable energy tax credits to owners of rental residences. This section is similar to a provision which was approved by the Senate as part of the Windfall Profit Tax Bill. The Conference Committee deleted that provision of the Senate bill.

Section 4. Adjustment of residential energy tax credit limits for inflation.—Adjusts the limits on expenditures covered by the residential energy credit upward by 50 percent to compensate for inflation. Since the changes this section would make will remain in effect until the credit's termination date on December 31, 1985, a 50 percent increase will help maintain the effect intended in the enactment of the credit on 1978. (The CPI from January 1, 1978 to this bill's enactment date will total approximately 47 percent.)

Section 5. Extension of the time period for business tax credits.—Extends all the energy tax credits for business to December 31, 1985, the same expiration date that applies to residential credits. Under present law, most of the business energy tax credits expire on December 31, 1982.

COMMERCIAL AND MULTIFAMILY ENERGY TAX CREDIT ACT

SECTION 2—INCLUSION OF THE COMMERCIAL SECTOR AND OF TECHNOLOGICALLY SIMPLE PROPERTIES WITHIN THE BUSINESS ENERGY TAX CREDIT

Section 2 of the bill clarifies the definition of the "Specially Defined Energy Property" so that it specifically includes conservation investments in commercial facilities. The bill applies this change retroactively to the 1978 origin of the credit. Section 2 also adds several types of property within the category of "Specially Defined Energy Property" so that businesses can receive tax credits for investments in less technologically complex devices than those already listed (e.g. materials to insulate buildings, pipes, and containers; storm windows). The addition of these properties applies prospectively starting July 1, 1981. Finally, section 2 increases the credit to 20 percent.

The changes would retroactively provide commercial facilities with credits for expenditures on property presently listed within the category of "Specially Defined Energy Property." One such property, automatic energy control systems, many commercial facilities can use. The bill would also prospectively provide both commercial and industrial facilities with credits for the smaller, less complex items that the bill adds to the "Specially Defined Energy Property" category.

The retroactive aspect of the change of the Specially Defined Energy Property statute would normally create tax administration problems. However, since IRS just issued final regulations for this credit on January 23, 1981, few taxpayers would have intentionally not taken the credit in reliance on the regulations. Instead, most have probably taken the credit and face a deficiency. In addition, since the amendment clarifies rather than changes the intent of the statute the amendment should apply to the life of the statute.

SECTION 3—EXTENSION OF RESIDENTIAL CREDITS TO LANDLORDS

Section 3 of this bill allows landlords to use both the 15 percent energy conservation and 40 percent renewable energy residential credits for expenditures on rental residences. For residences upon which landlords deduct depreciation, the level of the tax credit is lower. This section copies a provision of the 96th Congress' S. 3919, the Senate version of The Windfall Profits Tax Bill. The Conference Committee deleted that provision.

SECTION 4—ADJUSTMENT OF RESIDENTIAL CREDIT LIMITS FOR INFLATION

Section 4 adjusts the limits on expenditures covered by the residential energy credit upward by 50 percent to compensate for inflation. The section raises the expenditures amount covered by the Energy Conservation Credit from $2,000 to $3,000 and raises the expenditure amount covered by the Renewable Energy Source Credit from $10,000 to $15,000.

The expenditure limits presently in the code came from the Energy Tax Act of 1978 and apply to expenditures made after April 20, 1977. Using the Consumer Price Index, inflation from January, 1978, to June 30, 1981, was 47.1 percent.[1] Using the more conservative GNP Deflator, inflation from January, 1978, to June 30, 1981, was 33 percent.[2] Since the changes the bill would make will presumably remain effective until the credit's termination date on December 31, 1985, a 50 percent increase seems appropriate to maintain the effect intended in enactment of the credit in 1978.

SECTION 5—EXTENSION OF TIME PERIOD FOR BUSINESS TAX CREDITS

Section 5 extends all the energy credits for businesses to December 31, 1985. Under present law, most of the business energy tax credits expire on December 31, 1982.

Mr. KENNEDY. Mr. President, there is a national consensus that energy conservation is an essential element of a balanced national energy policy. Yet that consensus is not reflected in Federal financial incentives. Federal financial incentives for energy production were seven times greater than energy conservation incentives at the end of 1980.

In recent years, a consensus has developed that energy conservation—or energy

[1] Figure assumes 6 percent CPI for the first two quarters of 1981.

[2] Figure assumes 5 percent GNP Deflator for the first two quarters of 1981.

efficiency—is an essential element of a balanced national energy program. The consensus involves every element of the energy policy community including academia, business, organized labor, and environmental and consumer groups. This consensus of support for energy conservation exists because conservation:

Is already succeeding in a major way—it has saved the equivalent of 6 million barrels per day of oil;

Is the most cost-effective, least inflationary alternative to insecure oil imports;

Has significant potential, especially over the next decade—it can save the equivalent of 16 million barrels per day by 1990;

Involves the least uncertainty about its energy benefits;

Is regionally and socially equitable; and

Has little or no political opposition.

In spite of the existence of this broad consensus in favor of energy conservation, conservation receives only one-seventh of the financial incentives that are available to energy production.

The Congress faces a critical decision—whether the Government should interfere in energy investments. If all energy subsidies were abolished, price would be a neutral determinant in decisionmaking between energy options. However, if the Government continues to interfere in the market to increase energy security, it should redress the present serious imbalance in Federal financial incentives.

If large production incentives are continued, as it now appears will be the case, it will be necessary to establish a comprehensive energy conservation program to achieve a balanced energy policy.

I am thus happy to join with Senator TSONGAS in introducing this legislation which will expand the present energy conservation tax credits to commercial buildings and rental housing.

Improving the efficiency of our commercial sector is critical to our energy security as a Nation—and to Massachusetts where the many industries are not eligible for the existing tax credits.

By Mr. PERCY:

S.J. Res. 86. Joint resolution authorizing the President to proclaim the month of November, 1981 as "National REACT Month"; to the Committee on the Judiciary.

NATIONAL REACT MONTH

Mr. PERCY. Mr. President, I am today introducing a joint resolution requesting that the President designate the month of November 1981 as National REACT Month. REACT is an acronym which stands for "Radio Emergency Associated Citizens Teams."

The purpose of the resolution is to honor and recognize the efforts of citizens across the country who have volunteered as members of a REACT team. REACT is a volunteer organization which involves more than 200,000 Americans who, using their own CB radios, work in their local communities to insure highway safety and emergency communications. Countless lives are saved through their efforts.

Their work speeds the arrival of medical or other emergency help to the scene of an accident or a natural disaster. REACT also has a formal cooperative understanding with the American Red Cross, and many REACT members have been trained by the Red Cross in emergency first aid techniques.

REACT International, Inc., the nonprofit coordinating body for the local groups, is headquartered in Chicago, and I am especially proud of the countless Illinoisans who participate in the REACT program. By providing 24-hour monitoring of the airwaves, they have been invaluable in giving warning of tornadoes and blizzards in Illinois and in assisting law enforcement officials to get help quickly to the scene of accidents on Illinois highways. A National REACT Month will be a good opportunity for all of us to thank REACT members for their selfless contribution to our communities.

Mr. President, I ask unanimous consent that a fact sheet published by REACT International, Inc., and the text of the joint resolution be printed in the RECORD at this point.

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

S.J. RES. 86

Whereas, through REACT (radio emergency associated citizens teams), two hundred thousand citizens participate as volunteers to provide highway safety and emergency communications using their own citizens band radios in their local communities; and

Whereas, the cumulative effort, totaling over fifty million volunteer man-hours this year, has resulted in the savings of many lives because of the greater speed with which medical aid reaches the scene of an accident or natural disaster: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to designate the month of November 1981 as "National REACT Month", during which all citizens shall take notice and be aware of the significant contribution every local REACT team makes to the welfare of its local community and the Nation as a whole.

FACT SHEET

1. REACT is an independent non-profit public service organization fully IRS approved to receive tax deductible contributions.

2. Since its establishment in 1962, the organization has grown to 1,500 Teams and 32,000 dues paid members. Teams are active in all 50 U.S. States, 9 Canadian Provinces, Puerto Rico, Virgin Islands, Guam, Australia, Philippines, South Africa, West Germany, Trinidad-Tobago and Venezuela.

3. REACT Teams agree to develop a 24-hour monitor system on Chanel 9, the official emergency channel of the Citizens Band Radio Service. All operations must comply with local, state and Federal regulations, particularly those governing radio operations.

4. Local REACT Teams provide volunteer service in behalf of highway safety, and maintain emergency communications in case of disaster. Community service activities of all kinds are served by REACT communications including Special Olympics, March of Dimes, and other significant local activities.

5. REACT members, Teams and Councils are protected under a $500,000 General Liability Insurance Policy, covering REACT activities.

6. REACT International has created a training program for emergency channel monitors under a contract awarded by the U.S. Department of Transportation, National Highway Safety Administration. Prepared for NEAR (National Emergency Aid Radio), the program includes a 34-minute film, plus texts for instructors and students.

7. Since 1962 REACT Teams have handled an estimated 85 million emergency calls including more than 20 million highway accidents.

8. A formal cooperative understanding exists between the American National Red Cross and REACT. A large percentage of REACT Teams have taken Red Cross First Aid training and provide emergency communications coordinated through their Red Cross Chapters.

9. Research on a two-year REACT program in cooperation with the Ohio State Highway Patrol has been published by the Transportation Research Board of the National Academy of Sciences. Projecting results in Ohio, REACT members provide over 21-million volunteer man-hours per year in public service activities.

10. Through REACT Safety Break Time (co-sponsored by American Trucking Associations) REACT Teams serve over 1,000,000 cups of coffee and other refreshments annually to holiday weekend travelers along the nation's highways.

ADDITIONAL COSPONSORS

S. 63

At the request of Mr. RANDOLPH, the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 63, a bill to amend the Clean Air Act to provide compliance date extensions for steelmaking facilities on a case-by-case basis to facilitate modernization.

S. 254

At the request of Mr. SCHMITT, the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 254, a bill to authorize public land States to select certain public lands in exchange for land taken by the United States for military and other uses, and for other purposes.

S. 270

At the request of Mr. SCHMITT, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 270, a bill to amend the Communications Act of 1934 in order to encourage and develop marketplace competition in the provision of certain radio services and to provide certain deregulation of such radio services, and for other purposes.

S. 354

At the request of Mr. PERCY, the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of S. 354, a bill to amend the Export Administration Act of 1979.

S. 441

At the request of Mr. NUNN, the Senator from North Carolina (Mr. EAST) was added as a cosponsor of S. 441, a bill to provide limited assistance by the Armed Services to civilian drug enforcement agencies.

S. 546

At the request of Mr. RANDOLPH, the Senator from New Hampshire (Mr. RUDMAN) was added as a cosponsor of S. 546, a bill entitled the Fish Restoration Act of 1981.

S. 716

At the request of Mr. NUNN, the Senator from Texas (Mr. BENTSEN), and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of S. 716, a bill to amend the Federal Property and Administrative Services Act of 1949 to permit State and county extension services, and any State agricultural experiment station, to obtain excess property from the United States.

S. 732

At the request of Mr. NUNN, the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Louisiana (Mr. JOHNSTON) were added as cosponsors of S. 732, a bill to insure the confidentiality of information filed by individual taxpayers with the Internal Revenue Service pursuant to the Internal Revenue Code and, at the same time, to insure the effective enforcement of Federal and State criminal laws and the effective administration of justice.

S. 814

At the request of Mr. NUNN, the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Louisiana (Mr. JOHNSTON) were added as cosponsors of S. 814, a bill to improve the administration of criminal justice with respect to organized crime and the use of violence.

S. 886

At the request of Mr. ANDREWS, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 886, a bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Louis L'Amour.

S. 890

At the request of Mr. SCHMITT, the Senator from New Mexico (Mr. DOMENICI), and the Senator from Minnesota (Mr. BOSCHWITZ) were added as cosponsors of S. 890, a bill to amend title 5, United States Code, to improve procedures for the issuance of agency rules.

S. 921

At the request of Mr. SARBANES, his name was added as a cosponsor of S. 921, a bill to amend title 38, United States Code, to extend authority to provide contract hospital care and medical services in Puerto Rico and the Virgin Islands, and for other purposes.

S. 1010

At the request of Mr. NUNN, the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of S. 1010, a bill to protect taxpayers' privacy regarding third-party recordkeepers summoned to produce records of taxpayers and at the same time to insure effective, efficient enforcement of Internal Revenue Service third-party summons.

S. 1131

At the request of Mr. DANFORTH, the Senator from Idaho (Mr. SYMMS), and the Senator from Kentucky (Mr. HUDDLESTON) were added as cosponsors of S. 1131, a bill to require the Federal Government to pay interest on overdue payments and to take early payment discounts only when payment is timely made, and for other purposes.

S. 1163

At the request of Mr. NUNN, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1163, a bill to increase the penalties for violations of the Taft-Hartley Act, to prohibit persons, upon their convictions of certain crimes, from holding offices in or certain positions related to labor organizations and employee benefit plans, and to clarify certain responsibilities of the Department of Labor.

S. 1188

At the request of Mr. HEINZ, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 1188, a bill to authorize critical inland navigation improvement projects on the Monongahela and Upper Ohio River Waterways.

S. 1189

At the request of Mr. HEINZ, the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 1189, a bill to amend the Social Security Act to provide for a program of block grants for energy and emergency assistance, to establish a trust fund to which receipts from the windfall profit tax may be transferred to pay for such program, and for other purposes.

SENATE JOINT RESOLUTION 29

At the request of Mr. HEINZ, the Senator from Nebraska (Mr. EXON) and the Senator from West Virginia (Mr. ROBERT C. BYRD) were added as cosponsors of Senate Joint Resolution 29, a joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning with the first Sunday in June of each year as National Garden Week.

SENATE JOINT RESOLUTION 64

At the request of Mr. SIMPSON, the Senator from Maryland (Mr. MATHIAS), the Senator from Maryland (Mr. SARBANES), and the Senator from Kansas (Mr. DOLE) were added as cosponsors of Senate Joint Resolution 64, a joint resolution designating August 13, 1981, as National Blinded Veterans Recognition Day.

SENATE JOINT RESOLUTION 73

At the request of Mr. GLENN, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of Senate Joint Resolution 73, a joint resolution to designate the week beginning June 1, 1981, and ending June 7, 1981, as Management Week in America.

SENATE CONCURRENT RESOLUTION 14

At the request of Mr. HEINZ, the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of Senate Concurrent Resolution 14, a concurrent resolution expressing support for a further extension of our footwear orderly marketing agreement with Taiwan and Korea.

SENATE RESOLUTION 139

At the request of Mr. ANDREWS, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of Senate Resolution 139, a resolution to assure the access of farmer-owned refining businesses to crude oil at reasonable prices.

NOTICES OF HEARINGS

SUBCOMMITTEE ON WATER RESOURCES

Mr. ABDNOR. Mr. President, on June 8 the Subcommittee on Water Resources will begin 4 days of hearings into various aspects of national water resources policy. I believe these hearings will be most important ones, laying the groundwork for a major water resources bill later this year.

Because of the significance of these hearings, I ask unanimous consent that a press release issued by the Committee on Environment and Public Works be printed at this point in the RECORD.

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

PRESS RELEASE

The Subcommittee on Water Resources will conduct hearings on national water resources policy, including cost-sharing for harbor and inland waterway development, on June 8, 12, 16, and 18, Senator James Abdnor (R–S.D.) announced today.

"These hearings will examine the key aspects of our national water resources policy," Abdnor explained. Abdnor is the Subcommittee's chairman. "We expect that these hearings will establish a foundation that will enable the Subcommittee to report, later this summer, the first significant water resources bill since 1976."

The Subcommittee's ranking minority member is Senator Moynihan. Other Subcommittee members are Senators Domenici, Gorton, Murkowski, Bentsen, and Baucus.

The hearings on June 8 and 18 will provide an overview of existing water resources policy and water problems, including the extent of Federal responsibility, the adequacy of existing programs to meet future water needs, and such issues as whether the Federal government should participate in major urban water supply projects. Interior Secretary Watt and Assistant Army Secretary-designate Gianelli will be invited to testify on June 8. In evaluating bills such as S. 621, the Subcommittee will expect the Administration and other witnesses to discuss the following questions:

(1) Why has spending, in uninflated dollars, on water projects declined sharply in recent years, and what can or should be done to reverse that decline?

(2) Why does project development take so long, and what impediments to development can be removed?

(3) How can past commitments for water development be fulfilled in a fair and rapid manner?

(4) Should the states be involved to a far greater degree in project consideration and development. If so, how?

(5) How should priorities be established among various types of water projects?

(6) Should there be changes in cost-sharing requirement?

The June 12 hearing will focus on the issue of harbor development. In addition to the Administration's proposal, S. 809, and Printed Amendment No. 31, the hearing will consider S. 68, S. 202, S. 576, S. 828, and S. 1094. The Subcommittee will ask the witnesses to address the following issues:

(1) Is it necessary now to deepen coastal harbors to take advantage of foreign markets for coal and other bulk exports? If so, how can that be accomplished in the shortest possible time?

(2) Who should pay for the costs for dredging and maintaining deep harbor channels? Will cost-sharing, by itself, establish the necessary priorities? How will that affect competition among ports?

(3) If a system of full cost recovery were

in place, should the Federal government continue to study the feasibility of harbor improvements, and oversee construction?

The June 16 hearing will evaluate the subject of inland waterway development and user fees, including the Administration's bill, S. 810, and Printed Amendment No. 32. The Subcommittee will ask the witnesses to discuss the following questions:

(1) Would a system of user-fees related to expenditures damage the barge industry? Would it alter the competition among the various transportation modes? How would it relate to the selection of priorities for future waterway projects?

(2) If a user-fee system were implemented, what would be the fairest way to phase-in such fees?

Each of the four hearings will be held in Room 4200 of the Dirksen Senate Office Building. The June 8 hearing will begin at 2 p.m. Each of the others will begin at 10 a.m.

In accordance with the Senate rules, witnesses will be asked to file twenty-five copies of their testimony with the Committee at least 24 hours prior to their appearance. Those wishing to testify or to submit written statements for the record should contact Ms. Debbie Perry at (202) 224-7866.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

Mr. PACKWOOD. Mr. President, on June 3 and 4, 1981, the Subcommittee on Taxation and Debt Management generally is conducting hearings on the question of tuition tax credits. The bill scheduled for hearings is S. 550, introduced by Senators PACKWOOD, MOYNIHAN, ROTH, and several other Senators.

The purpose of this statement is to briefly explain the issues raised by this bill. This may help you track the progress of tax legislation before the Taxation Subcommittee. It helps assure greater public awareness of tax bills coming before hearings.

TUITION TAX CREDITS—S. 550

S. 550, introduced by myself, Senator MOYNIHAN, Senator ROTH, and several other Senators, provides tuition tax credits for tuition payments.

The credit equals 50 percent of tuition, with a maximum credit of $500 per student per year. The credit is refundable.

The tuition tax credit is applicable to tuition paid to private elementary, and secondary institutions, grades 1 through 12; and also to college and vocational schools. To be eligible for the credit, the tuition must be paid to an institution that is exempt under Internal Revenue Code section 501(c)(3), and it must not exclude persons from admission or participation based on race, color, or national or ethnic origin.

The bill is phased in three stages. In stage 1, effective August 1, 1982, the maximum tuition tax credit per student per year is $250. The credit would apply to full-time undergraduate college and vocational school students, as well as elementary and secondary students.

In stage 2, effective August 1, 1983, the maximum credit is increased to $500 per student per year. In stage 3, effective August 1, 1984, the tuition tax credit is extended to graduate college and vocational students, and to students enrolled with at least a one-half time academic load.

Different versions of tuition tax credit bills passed both the House of Representatives and the Senate in 1978. However, the two Houses did not agree on a final version of the bill, and the legislation died at the end of the session.

The hearings on June 3 and 4 are scheduled for both the morning and afternoon. All witnesses timely requesting to testify were scheduled, fully representative of a wide range of viewpoints on the subject of tuition tax credits.

Mr. President, I request unanimous consent that the witness lists for these hearings be inserted in the RECORD following these remarks.

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

COMMITTEE ON FINANCE—SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

WEDNESDAY, JUNE 3, 1981

9:00 a.m.

The Honorable Alfonse M. D'Amato (R.-New York).

The Honorable Gary Hart (D.-Colorado).

The Honorable John E. Chapoton, Assistant Secretary of the Treasury for Tax Policy.

A panel consisting of:

Dr. James Skillen, Executive Director, Association for Public Justice, Washington, D.C.

Dr. Eugene Linse, Chairman, Citizens for Educational Freedom, Washington, D.C.

Robert L. Smith, Executive Director, Council for American Private Education, Washington, D.C.

A panel consisting of:

David E. Landau, Legislative Counsel, American Civil Liberties Union, Washington, D.C.

Richard Gene Puckett, Executive Director, Americans United for Separation of Church and State, Washington, D.C.

Nancy N. Neuman, Social Policy Director, League of Women Voters of the United States, Washington, D.C.

Marilyn Braveman, Director of Education, The American Jewish Committee, New York, New York.

Joanne T. Goldsmith, Executive Director, National Coalition for Education and Religious Liberty.

1:00 p.m.

A panel consisting of (3 minutes each):

Helen Brice, Washington, D.C.

Barbara Fields, Washington, D.C.

Lydia Jones, Landover, Md.

Carmen Madden, Washington, D.C.

Richard Sylvester, Washington, D.C.

Frances Bell, Washington, D.C.

A panel consisting of:

Professor E. G. West, Carleton University, Ottawa, Canada, representing the Heritage Foundation.

Professor Frank Brown, DePaul University, Chicago, Illinois, and Chairman, National Association for Personal Rights in Education.

Dr. Harold Buetow, Catholic University, Washington, D.C.

Joel Sherman, Esq., National Institute of Education, Washington, D.C.

A panel consisting of:

Professor Bernard L. Weinstein, the University of Texas at Dallas, Richardson, Texas.

Walter Berns, Resident Scholar, American Enterprise Institute for Public Policy Research, Washington, D.C.

William Ball, Esq., Ball & Shelly, Harrisburg, Pa.

Antonin Scalia, Stanford University Law School, Stanford, CA.

A panel consisting of:

Hope Smith, President, Towson State University, representing the American Association of State Colleges and Universities, Washington, D.C.

Steve Leifman, National Director, Coalition of Independent College and University Students, Washington, D.C.

Dr. Melvin A. Eggers, Chancellor, Syracuse University, representing the National Association of Independent Colleges and Universities.

Dr. Peter J. Cayan, Jr., President, North Country Community College, New York, representing the American Association of Community and Junior Colleges, Washington, D.C.

Paul E. Bragdon, President, Reed College, Oregon, representing the American Council on Education.

THURSDAY, JUNE 4, 1981

9:30 a.m.

The Honorable T.H. Bell, Secretary of Education.

A panel consisting of [3 minutes each]:

Bill Sadler, Annapolis, Md.

Mona Hanford, Bethesda, Md.

Jacob I. Friedman, New York, New York.

Juanita Ramirez, Irving, Texas.

Wallace G. Tolman, Jr., Manassas, Va.

Joseph E. Horton, Leesburg, Va.

Rabbi Morris Sherer, President, Agudeth Israel of America.

Most Reverend James P. Lyke, O.S.M., Auxiliary Bishop of Cleveland, representing the United States Catholic Conference.

Dr. Jerry Falwell, President, The Moral Majority, Inc.

A panel consisting of:

Dr. Thomas Vitullo-Martin, Director of Research, Metroconomy, Inc., New York, New York.

Professor James S. Coleman, University of Chicago, Chicago, Illinois.

A panel consisting of:

Willard McGuire, President, National Education Association, Washington, D.C.

Dorothy Shields, Director of Education, AFL–CIO, also representing American Federation of Teachers, Washington, D.C.

Dr. Harold J. T. Isenberg, President, Federation of Catholic Teachers, A.F.T., AFL–CIO, New York, New York.

A panel consisting of:

Jack Clayton, American Association of Christian Schools, Normal, Illinois.

Rabbi Bernard Goldenberg, National Director, National Society of Hebrew Day Schools, New York, New York.

William Billings, Executive Director, National Christian Action Coalition, Washington, D.C.

Dr. Michael T. Ruiter, Executive Director, Christian Schools International, Grand Rapids, Michigan.

2:00 p.m.

A panel consisting of:

Joan E. Reinthaler, The Sidwell Friends School, Washington, D.C.

Rabbi Chaim Dov Keller, Administrator, Telsheyeshiva and Chairman, Educational Committee, Beth Jacob Elementary School, Chicago, Illinois.

Wallie Simpson, Founder, Lower East Side Community School, Inc., New York, New York.

Abigail Wiebenson, Assistant Head, Georgetown Day School, Washington, D.C.

A panel consisting of:

Jeanne S. Frankl, Chairman, Coalition of Citizens Against Tuition Tax Credits and Executive Director, Public Education Association, New York, New York.

Grace Baisinger, Chairperson, National Coalition for Public Education, Washington, D.C.

Lynne Ein, National School Boards Association, Washington, D.C.

A panel consisting of:

Kirby J. Ducote, Executive Director, Louisiana Federation, Citizens for Educational Freedom, New Orleans, La.

Mary M. Patnaude, Chairperson and Executive Director, New Jersey Right to Educational Choice Committee, Inc., Westfield, N.J.

Dr. Timothy O'Brien, Catholic League for Religious and Civil Rights.

Lydia Kess, Esq., representing the National

Jewish Commission on Law and Public Affairs.

A panel consisting of:

William P. Gallagher, Executive Director, New York State Federation of Catholic School Parents, Binghampton, New York, also representing the National Catholic Education Association, Washington, D.C.

Julius Berman, Esq., representing the Union of Orthodox Jewish Congregations of America, New York, New York.

James C. Phillips, Christian Schools of Michigan, Ypsilanti, Michigan.

J. Wayne Hammond, Accelerated Christian Education, Inc., Lewisville, Texas.

The Honorable Gary Ackerman, The Senate, State of New York.

SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY

Mr. WEICKER. Mr. President, I would like to announce for the information of the Senate and the public, that the Subcommittee on Energy Conservation and Supply has scheduled hearings on S. 1166, the National Home Weatherization Act.

The hearings will be held on Wednesday, July 15, at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

ADDITIONAL STATEMENTS

INTERNATIONAL INVESTMENT SURVEY ACT AUTHORIZATION—S. 1104

● Mr. PRESSLER. Mr. President, S. 1104 authorizes $4 million for fiscal year 1982 for the International Investment Survey Act. A reauthorization hearing was held before the Subcommittee on Business, Trade and Tourism, which I chair, on April 9, 1981. Testimony was received from representatives of the Commerce and Treasury Departments which are responsible for carrying out the act.

It is my belief that the conditions which originally prompted passage of the International Investment Survey Act still exist. There is considerable concern within the U.S. business community about the level of foreign involvement in the American economy. This involvement has been increasing rapidly, and in some cases is viewed as a threat to specific American industries as well as the stability of U.S. financial markets.

A number of economists feel that should foreign economic holdings in this country become too extensive that we would be vulnerable to economic shocks in the event of sudden shifts in these holdings. For instance, the movement of massive amounts of foreign capital in or out of U.S. securities could result in dangerous instability in the stock market.

While the likelihood of a concerted effort to cause disruption is minimal, it is still important that we have the means to monitor foreign capital flows. This is why continuation of the International Investment Survey Act is necessary. It is our primary source of statistical data on the movement of foreign money through our economy, and without it we would only be able to guess at the relative size of foreign investments at any one time.

For the reasons I have mentioned I am pleased that the Senate approved S. 1104 as reported by the Senate Committee on Commerce, Science, and Transportation.●

STRATEGIC PETROLEUM RESERVE FUNDING MUST NOT STOP SYNTHETIC FUELS PROGRAM; MARVIN STONE EDITORIAL IS VALID

● Mr. RANDOLPH. Mr. President, in recent weeks during Senate consideration of the proposed budget, the question of how to fund the Strategic Petroleum Reserve surfaced as the primary budget issue in the energy area. This weekend, I read and responded to an editorial by Marvin Stone in June 1 issue of U.S. News & World Report.

I submit for the RECORD and I ask our colleagues to review this editorial, "Three Billion Well Spent," and my response to it which represents what one observer feels should be the proper role for this reserve as we attempt to reconcile domestic energy development with our future national security.

The editorial follows:

$3 BILLION WELL SPENT

(By Marvin Stone)

It's time to stop playing politics with the nation's Strategic Petroleum Reserve.

This costly but vital project is supposed to protect the U.S. against a sudden cutoff of foreign oil by stockpiling enough to tide us over an emergency. The danger of such a cutoff is very real, especially if the tension now building between Israel and Syria flares into a new Mideast war.

Despite compelling reasons, neither Congress nor the White House seems willing to spend the 3 billion dollars needed to purchase oil for the reserve in 1982. Unless the nation's leaders show more resolve, the oil-stockpiling program—already lagging badly—will fall further behind schedule.

The idea of a Strategic Petroleum Reserve grew out of the 1973–74 Arab oil embargo that forced American motorists to line up for gasoline and left the U.S. economy in shambles. In 1975, President Ford asked Congress to approve a billion-barrel stockpile, enough oil to replace the nation's import needs for 90 days. The first 500 million barrels were to be stored by 1982.

So far, only 135 million barrels have been stored in salt-dome caverns along the Louisiana-Texas coast. That would be about a month's supply if all imports were halted. The delays have been blamed on oil shortages, bureaucratic mismanagement and opposition from foreign oil producers.

Perhaps the most important reason, however, is the escalating cost of oil. The price of a 42-gallon barrel of oil has risen from $10.38 in 1975 to around $36 today. In 1975, a billion-barrel reserve was estimated to cost 6 billion dollars. Now, the estimate is 47 billion dollars for a scaled-down reserve of 750,000 barrels.

President Reagan, attempting to keep a campaign promise to build up the reserve, asked for 3.9 billion dollars for the program in 1982. That would have enabled the government to buy about 230,000 barrels a day.

However, under pressure to trim federal spending and move toward a balanced budget, both the House and Senate have voted to reduce appropriations for the reserve by 3 billion dollars next year on the assumption that members will agree on some other financing method.

There is a wide variety of alternate plans now floating around on Capitol Hill.

The Senate Energy Committee has voted to borrow the money by selling government bonds, a bookkeeping gimmick that would not show up in the regular budget.

Senator Nancy Kassebaum (R-Kans.) wants to force major oil importers to contribute five days' worth of imports each year to the reserve in exchange for a 10 percent fee.

Representative Phil Gramm (D-Tex.) has introduced legislation that would allow the government to sell "oil bonds" to private investors. Each bond would be worth the price of a barrel of oil and could be redeemed at the end of 10 years or during an emergency at the then prevailing price of oil.

Another scheme would allow the government to borrow the 3 billion dollars from the 17 billion earmarked for the new U.S. Synthetic Fuels Corporation.

Although both Treasury Secretary Donald Regan and Budget Director David Stockman have testified that a straightforward appropriation would be the best way to fund the reserve, the White House has remained strangely silent. Without leadership from President Reagan, there is a real danger that Congress will not be able to reach agreement on a plan for financing the reserve.

It may take a certain amount of political courage to spend 3 billion dollars on oil that may never be needed at a time when programs such as Social Security, school lunches and prenatal care are facing sharp cuts. But the consequences could be much worse—for the administration and Congress—if another catastrophic oil shortage ever sends Americans back to the gasoline lines.

U.S. SENATE,
Washington, D.C., June 3, 1981.

Mr. MARVIN STONE,
Editor, U.S. News and World Report, Washington, D.C.

DEAR MARVIN: Your thoughtful editorial, "Three Billion Well Spent" in the June 1 edition of U.S. News and World Report, is valid.

This Nation needs secure domestic supplies of fuel. Your words concerning the possibility of upcoming foreign supply interruptions because of renewed Mideast conflict are accurate. Such beliefs were also accurate in 1943 and in 1961. I spoke then in the House of Representatives and before the Senate Interior Committee emphasizing that, "every year that passes in which we become more and more dependent on foreign oil to buttress our economy and security perhaps is one year nearer to disaster. We are gambling with our country's future."

The concept of the Strategic Petroleum Reserve highlights our national preoccupation with minimizing the short-term effects of inadequate domestic energy supplies while failing to forge a policy to solve longer term problems.

Recognizing this fact, the Synthetic Liquid Fuels Act of 1944 was introduced and passed during the Roosevelt Administration. This legislation mandated development of new technology to produce ethanol, methanol and other liquid fuels from coal, oil shale, and agricultural products.

In 1955, the decision was made by the then current Administration to eliminate all government participation in alternate synthetic fuels projects. The assumption was that if needed, private industry would anticipate and respond that the country have adequate fuel supplies. If we had continued government support for synthetic fuels initiated in the early forties, as in my bill, we would have realized domestic commercial production today.

When the Strategic Petroleum Reserve concept was acted on in 1975 I refused to support that short-term effort until we had developed, as a first priority, legislation we could use to recreate a synthetic fuels industry in the United States and establish complete energy independence.

Passage of the Energy Security Act of 1980 sent the message to OPEC that we again were encouraging the construction of synthetic fuel plants, not only through subsidy support where needed to assure early commericialization, but through protection against unwarranted regulation and inflationary impacts. It also signaled domestic energy industries that we were asking for immediate action on synthetic fuels by allowing the President to initiate necessary activities to reach this goal under the Defense Producton Act of 1950 while the Synthetic Fuels Corporation was being organized.

It is important now that we do not take a step backward in our long-term national commitment to synthetic fuels. The President must appoint the final two members of the Corporation Board and provide personal leadership in the activities of the organization to guarantee its vitality.

If these steps are taken by the new Administration on synthetic fuel development, full funding of the Strategic Petroleum Reserve will be a necessary and correct secondary step to take. Filling the oil reserve will guard against supply interruptions while our synfuels capacity is being constructed. We, however, can not use funds set aside for synthetic fuel development to purchase foreign oil. To borrow three billion dollars from appropriations for the Synthetic Fuels Corporation would erode public confidence in the government's ability to establish and consistently pursue policies to assure eventual and permanent energy independence. Such a funding scheme would be unacceptable.

A coordinated and balanced program encouraging an oil reserve and synthetic fuels industry will serve our Nation well. Neither are subsidies, but are investments for our future generations.

Truly,

JENNINGS RANDOLPH.●

REGULATORY REFORM NEEDED NOW

● Mr. SASSER. Mr. President, I rise to reiterate my suport for S. 1080, the Regulatory Reform Act of 1981. This bill can help stop the Federal Government from strangling the "free" out of the free enterprise system.

In 1982, the Federal Government will spend almost $7.5 billion on regulatory activties and will employ 89,000 people to administer Federal regulations.

And what has the burgeoning regulatory structure wrought? Well, in 1980, the Small Business Administration estimated that the Nation's private entrepreneurs waded through 2,000 separate forms, and filled out 850 million pages of paper answering more than 7.3 billion questions.

The effect? Well, let me give you just a couple of examples that have occurred in my home State of Tennessee.

For the past 20 years, Jakes Brothers Sausage Co. in Joelton, Tenn., has called the delicious product it makes "smoked pork sausage." That seemed quite reasonable, considering the fact that the product is made by smoking pork sausage. However, in one of the most patently ridiculous examples of regulatory excesses imaginable, the U.S. Department of Agriculture has decreed a change in the labeling. Henceforth, the label must read: "smoked sausage made with pork."

Now, I cannot believe that the USDA employs personnel who have nothing better to do than come up with absurd label changes. Yet there it is: USDA Regulation No. 319.160.

The point is this. The history of Tennessee does not record any irreparable harm being suffered by our citizens from the labeling of our hickory-smoked pork sausage as smoked pork sausage. In fact, the old name makes perfect sense considering the contents of the product.

Ellis Jakes, of Jakes Brothers Sausage, told me that he does not feel it will be an expensive matter to change the label on his sausage. Yet, as a matter of principle, he challenges the Department of Agriculture's right to require such a change.

And his story is, it seems to me, a good case of history of the problems caused by over regulation.

Another example was the attempt 2 years ago by the Department of Labor to require employees of Southern Clay, Inc., in Paris, Tenn., to take mine safety training. None of the 250 employees of Southern Clay, Inc. ever even come close to any mines.

Although the company owns three clay mines, the mining is done by independent subcontractors who employ a total of 12 persons.

Not only was the requirement that the Department of Labor give mine safety training to its employees unwarranted, costly, annoying, and downright absurd—but also, to add insult to injury, the Department of Labor insisted that the employees must have annual refresher training as well.

Fortunately, these regulations were never finally imposed after my intervention with the agency on behalf of Southern Clay, Inc. If they had been, the company would have been forced to spend a great deal of money to train its employees with the cost passed on to the consumer in the form of higher prices for the kitty litter.

Examples like these raise my hackles. I believe that S. 1080, for the most part, represents a constructive approach to doing away with ridiculous cases like these, thereby improving the regulatory system.

There are some things I would like to see added to this bill, however. First and foremost is the question of effective congressional control of the rulemaking process. S. 1080 should be amended to include a legislative veto provision drafted along the lines of S. 344, which I am cosponsoring with Senators LEVIN and BOREN and several other of my colleagues. The Congress has the duty to comment on the interpretation by the Federal agencies of the laws that we spend so much time shaping. It is our responsibility to oversee agency rulemaking so that it will not contravene legislative intent.

As the ranking minority member of the Subcommittee on Intergovernmental Relations, I am also particularly aware of the impact of the more than 1,200 Federal regulations imposed on State and local governments.

Why, for example, should the Environmental Protection Agency tell folks in Chattanooga, Tenn., that their garbage trucks are making too much noise? People in Chattanooga have ears. If the trucks bother them, they will bring their concerns directly to the mayor.

Yet, the EPA has seriously considered setting noise emission standards for garbage trucks in Chattanooga and other cities across the Nation. The cost? About $25 million a year. And are there alternatives the EPA hasn't considered?

Yes, indeed. For instance, the garbage trucks could alter their schedules so that they are not routed through residential neighborhoods in the early morning hours. This certainly seems more sensible to me than the expensive soundproofing of garbage trucks.

Now, I understand that the enforcement of the EPA garbage truck regulation has been suspended following a meeting between the agency and the garbage truck manufacturers. That means that, though the regulations still remain on the books, the manufacturers of garbage trucks need not comply. Yet, this is but a "stopgap" measure which gives EPA time to reconsider its noise control objectives in light of significant budgetary cutbacks this year.

Steps must be taken to improve a regulatory system that allows such ridiculous regulations to be imposed on business and on other levels of government. I believe that S. 1080, the regulatory reform act of 1981, is an excellent vehicle, building on democratic regulatory reform initiatives of the 96th Congress, for streamlining our regulatory system.

I urge the Judiciary and Governmental Affairs Committees to take early action on S. 1080.●

U.S. TRAVEL SERVICE AUTHORIZATION—S. 1105

● Mr. PRESSLER. Mr. President, S. 1105, a bill to reauthorize the U.S. Travel Service, was reported by the Committee on Commerce, Science, and Transportation on May 6, 1981, without amendment. This reauthorization must be approved if the activities of the U.S. Travel Service are to be continued.

Beginning with the International Travel Act of 1961, the Federal Government has supported efforts to promote foreign travel to the United States. Through the U.S. Travel Service the Federal Government has operated programs in several foreign countries to disseminate information on attractions and travel opportunities in the United States. The purpose of the travel sevice is not to advertise or promote individual businesses, but to foster interest in the great variety of geographic and cultural attractions which specific regions of the United States have to offer. The U.S. Travel Service has generally produced a large financial return from these activities. Depending on the figures used, the Travel Service returns between $10 and $20 dollars for each dollar spent on its promotional efforts. And this does not take into account the multiplier effect of these foreign expenditures as they work their way through the U.S. economy.

Both visitor arrivals and tourism expenditures have grown rapidly in the United States and worldwide over the past several years, and I am hopeful this

trend will continue. In 1980 it is estimated that foreign travelers spent some $12 billion in the United States, up from $10 billion in 1979. This has resulted in tourism receipts becoming one of the principal contributors to our foreign trade income.

However, we must realize that during the past few years many international travelers have been drawn to the United States by the dual attraction of low international air fares and very favorable exchange rates. These two situations are now changing and will be working against us in the future. This means that if the United States is to continue to garner its share of the international tourist dollar we will have to improve our promotion and facilitation efforts.

Unfortunately, this is not the direction in which we have been heading. Federal assistance to the tourism industry has declined sharply since 1979, with the budget of the U.S. Travel Service falling from $13.5 million to $8 million in 1981. The Reagan administration has proposed another decrease to $6.5 million for fiscal year 1982.

It has been, and continues to be the position of the Senate that more should be done by the Federal Government in the area of tourism promotion. The travel and tourism industry provides direct employment for 4.4 million Americans and indirectly accounts for another 2.2 million jobs. The industry contributes $140 billion to the U.S. economy each year. Yet despite these facts, few administrations have offered their firm support for this function.

In an effort to change this situation the Senate Commerce Committee spent 5 years and $250,000 conducting a national tourism policy study. This extensive research project made a number of conclusions about what would be the best ways for the Federal Government to foster growth in the tourism industry. These recommendations were incorporated in the National Tourism Policy Act which was passed by the 96th Congress in 1980 (S. 1097). However, the measure was pocket vetoed by President Carter.

The act, as passed, called for the creation of an independent agency within the Federal Government which would replace the U.S. Travel Service as the tourism promotion arm of the Federal Government. It was felt that the insulation provided by this independent status would result in a more autonomous, aggressive, and effective organization.

The measure also called for the creation of a Cabinet level coordinating council to monitor and make recommendations on the many disparate activities of Federal agencies which have an impact on the travel and tourism industry. The national tourism policy study had found that there existed over 100 programs within the Federal establishment which had a significant bearing on the industry, but for which there was no coordination regarding their impact on the travel and tourism industry. The committee felt it was very important that such a coordinating council be created to act as an advocate for travel and tourism within the Federal Government. Unfortunately, this provision was dropped in conference with the House during final discussions of S. 1097 and was not in the bill sent to President Carter.

Early in the 97th Congress, I introduced S. 304, a bill which is virtually identical to S. 1097 as it went to the President. This bill passed the Senate unanimously on January 27, 1981. While enactment of this legislation remains my primary goal, I realize that if it is not enacted then we must have an alternate plan. That is why I introduced this reauthorization. It will insure that the Federal Government's role in international tourism promotion continues even if the new system I am advocating does not become a reality.

This reauthorization, then, should be viewed as a backup measure whose purpose is to insure continuation of a Federal role in tourism in the event that the preferred legislation, S. 304, is not enacted. Therefore I am pleased the Senate acted favorably on S. 1105.●

VIETNAM VETERANS APPRECIATION WEEK

● Mr. SASSER. Mr. President. Claiborne County, Tenn., recently approved a resolution declaring the week of May 25 through 31, 1981 as Vietnam Veterans Appreciation Week. I commend Claiborne County for its initiative in recognizing the brave veterans of the Vietnam era.

For too long, Mr. President, Vietnam veterans have been forgotten. They are the veterans who were lost in a sea of domestic upheaval upon returning home from an unpopular war; their sacrifices and contributions were lost as the Nation tried to forget the fighting brought into their own homes by television.

It is altogether fitting, however, that the Nation, and in particular this body, begin to bridge the gap that sets Vietnam veterans apart. We began this process during the 96th Congress, when we approved legislation permitting a Vietnam Veterans Memorial to be built in Constitution Gardens. We are continuing the process by voting increased appropriations to the Veterans' Administration.

But more remains to be done before the wound is completely healed. Specifically, we must recognize the special problems facing the Vietnam veterans readjustment counseling program. I have cosponsored legislation, by the able Senators from California (Mr. CRANSTON) and Rhode Island (Mr. CHAFEE), which would accomplish these goals. We must not be a party to any attempt to break faith with the Vietnam veteran, and I look to the Senate to approve Senate printed amendment No. 42 and S. 872 in the near future.

I ask that Claiborne County's resolution designating Vietnam Veterans Appreciation Week be printed in full following my remarks.

The resolution follows:

PROCLAMATION

Know all Claiborne Countians by these presents:

That whereas, all Claiborne Countians are justly proud of the glorious heritage passed on to them by their forebears since the earliest settlers came into what is now Claiborne County, Tennessee;

And whereas, a noble aspect of the heritage is, and has always been, the willingness of our forebears and their descendants to take up arms in defense of their homes, their families, their communities, and their country when honor and duty made such a course of action necessary;

And whereas, the citizens of Claiborne County have continued with unabated cost and fervor to carry on this tradition through all of our wars and conflicts, up to and including the most recent hostilities in Vietnam and adjacent areas in Southeast Asia;

And whereas, the citizens of Claiborne County are especially proud of the courage, dedication, devotion to duty, and sacrifice of our young fighting men during the aforesaid Vietnamese conflict, in which we feel that they honorably carried on this noble tradition, and in which some gave their lives, and others still bear the horrible physical and mental scars of war;

And whereas, both during and after the aforesaid Vietnamese conflict, the citizens of Claiborne County have witnessed the sickening spectacle in certain quarters of our Nation of a lack of understanding of the sacrifices being made by our fighting men, and a lack of appreciation for their willingess to serve their country, which lack of understanding and appreciation, in many instances, manifested itself in abuse of, and contempt for, these noble young men and their dedication to honor and duty;

And whereas, the citizens of Claiborne County deplore the aforesaid treatment of our Vietnam veterans and firmly believe that we should express our sentiments by publicly honoring and paying tribute to these noble young men and the memory of those who gave their lives;

And whereas, Claiborne County Memorial Post No. 8779 of the Veterans of Foreign Wars, of the Department of Tennessee, and the ladies auxiliary of said post, have embarked upon a campaign to honor our Vietnam veterans, in which campaign they have requested the support of the governing bodies of our county and municipalities, all public officials of our county, and all citizens of our county, to assist in this endeavor;

Now, therefore, for the reasons hereinabove set forth, and pursuant to the aforesaid unanimous resolution of the county commission of Claiborne County; the endorsement of the county and municipal officials of Claiborne County; and the enthusiastic and whole-hearted support of the entire citizenry of Claiborne County, we, the undersigned, do hereby declare the week of May 25 through May 31, 1981, as Vietnam Veterans Appreciation Week in Claiborne County, Tennessee, and the municipalities therein,

We further call upon all citizens of Claiborne County, especially this week and in the future, to express their personal appreciation in every way possible to these noble veterans and their families, and to the families and relatives of those who gave their lives.

We further call upon all of the citizens of Claiborne County to assist Claiborne County Memorial Post No. 8779 of the Veterans of Foreign Wars, and the ladies auxiliary of said post, in compiling a roster of all Claiborne Countians who served in the Vietnamese conflict, in order that said roster can be given its rightful place of honor in our county's public records, and be indelibly engraved in the hearts and minds of all our citizens who treasure our freedom, and appreciate all of the efforts of our Vietnam veterans in furthering same.

We further call upon all of the news media in our county and our surrounding areas to widely publicize the proclamation, and join with us in paying tribute to our Vietnam veterans during this special week.

In testimony whereof, we, the undersigned, have herewith set our hands and seals upon this the 19th day of May, 1981.

Bill D. Herst, County Executive, Charles "Bud" Chadwell, Mayor, Town of New Tazewell, E. J. Hardin, III, Mayor of the Town of Tazewell, James D. Estep, Jr., Attorney, Town of New Tazewell, Bob Owen, City Recorder, Treasurer, City Judge, Town of Cumberland Gap.●

CONCLUSION OF MORNING BUSINESS

Mr. STEVENS. Mr. President, is there further morning business?

The PRESIDING OFFICER (Mr. HAYAKAWA). If there is not, morning business is closed.

BORROWING AUTHORITY FOR THE DISTRICT OF COLUMBIA

Mr. STEVENS. Mr. President, I ask the Chair to lay before the Senate Calendar No. 104, S. 640.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 640) to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 138

Mr. STEVENS. Mr. President, on behalf of Mr. MATHIAS I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), on behalf of Mr. MATHIAS, proposes an unprinted amendment numbered 138.

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

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

The amendment is as follows:

On page 1, line 3, between the words "That" and "section" insert: "(a)".

On page 2, after line 5, insert the following:

(b) Section 723(c) of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198) is amended to read as follows:

"(c) Subject to the limitation contained in section 603(b), there are authorized to be appropriated not more than $155,000,000 per year for fiscal years 1982 and 1983; and, to the extent that funds appropriated for this purpose exceed $145,000,000 per year for the fiscal years 1982 and 1983, such excess funds shall not be apportioned by the Office of Management and Budget nor shall such funds be made available for obligation for this purpose unless such appropriation act shall explicitly and specifically provide that such obligation limitation as is hereby created does not apply."

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

● Mr. MATHIAS. Mr. President, today I am pleased to bring before the full Senate a bill which will enable the District of Columbia to proceed with its long-term plan to insure financial stability for the city.

Briefly, S. 640 would extend the borrowing authority of the District for 2 years to allow the city to move into the capital bond market without interrupting important ongoing construction and repair projects. The borrowing authority will be capped at $155 million in fiscal year 1982, as requested by President Reagan, and the Governmental Affairs Subcommittee on Governmental Efficiency and the District of Columbia received no unfavorable testimony during consideration of the bill.

On May 11, 1981, I received a letter from the Office of Management and Budget commenting on S. 640 with suggested changes in the procedure by which the city borrows from the Treasury. After discussions with the Office of Management and Budget and a review of the history of the city's borrowing, I feel it appropriate that these modifications be considered during hearings before my subcommittee, tentatively scheduled in late June.

Under current law, the District of Columbia may borrow such funds as are necessary to complete improvement projects for which construction and construction services funds were authorized or appropriated prior to October 1, 1980, or the date of enactment of the D.C. Appropriation Act of 1981, whichever is later. S. 640 extends this authority for 2 years. This interim authority is necessary to allow the city a smooth entry into the bond market.

The first full audit of the city's books has just been completed and the way is now paved to begin the change to financing with revenues from capital bonds. To delay or abandon important construction and repair projects would be a disservice to all who live and work in our Nation's Capital, as well as those who visit here each year. S. 640 will insure that this does not occur.

The Governmental Affairs Committee is adding a technical amendment to S. 640 which will bring the bill in line with President Reagan's budget for fiscal years 1982 and beyond. The amendment specifies that the loan authority granted in S. 640 is capped at a level of $155 million in budget authority and $145 million in outlays, in both fiscal year 1982 and fiscal year 1983. The Governmental Affairs Committee has already made this recommendation to the Budget Committee to be included in its reconciliation package. The technical amendment merely conforms S. 640 with the Governmental Affairs Committee reconciliation proposals to assure the savings are not nullified sometime in the future.●

Mr. FORD. Mr. President, I understand the amendment by the distinguished Senator from Maryland (Mr. MATHIAS) is a technical amendment and has been agreed upon, and there is no objection on this side.

Mr. STEVENS. I thank the Senator from Kentucky.

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

The amendment (UP No. 138) was agreed to.

The bill, as amended, was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 640

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 723(a) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code. sec. 47-241 note) is amended by striking out "October 1, 1980, or upon enactment of the fiscal year 1981 appropriation Act for the District of Columbia government" in the first sentence and inserting in lieu thereof "October 1, 1982, or upon enactment of the fiscal year 1983 appropriation Act for the District of Columbia government.".

(b) Section 723(c) of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198) is amended to read as follows:

"(c) Subject to the limitation contained in section 603(b), there are authorized to be appropriated not more than $155,000,000 per year or fiscal years 1982 and 1983; and, to the extent that funds appropriated for this purpose exceed $145,000,000 per year or the fiscal years 1982 and 1983, such excess funds shall not be apportioned by the Office of Management and Budget nor shall such funds be made available for obligation for this purpose unless such appropriation act shall explicitly and specifically provide that such obligation limitation as is hereby created does not apply.".

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

AUTHORIZATION FOR THE COMMITTEE ON ARMED SERVICES TO HAVE UNTIL 7 P.M. TODAY TO FILE REPORT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Armed Services have until 7 p.m. today, Wednesday, June 3, to file certain routine nominations and to file a report to accompany S. 1127, the Intelligence authorization bill for fiscal year 1982.

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

GRANTS BY THE VETERANS' ADMINISTRATION IN SUPPORT OF STATE MEDICAL SCHOOLS

Mr. STEVENS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 2156.

The PRESIDING OFFICER laid before the Senate H.R. 2156, an act to amend title 38, United States Code, to extend by 12 months the period during which funds appropriated for grants by the Veterans' Administration for the establishment and support of new State medical schools may be expended, which was read twice by its title.

The Senate proceeded to consider the bill.

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

● Mr. GLENN. Mr. President, I want to express my thanks to the Committee on

Veterans' Affairs for its persistence in obtaining passage of a measure that is very simple, yet quite important. I refer to H.R. 2156, a measure identical in purpose to a bill (S. 380) that I have introduced. A similar provision has been ordered reported by the Committee on Veterans' Affairs. I might add that the Senate, last year, twice approved similar provisions, though they failed to be enacted.

In 1972, Congress established a program by which the Veterans' Administration could assist the establishment of no more than eight new State-affiliated medical schools. In actuality, five such schools were started under the program. The first of these was the Wright State University School of Medicine near Dayton, Ohio, which is associated with the VA Medical Center there. It, like the other schools, was authorized grant assistance for the alteration or repair of physical facilities and for faculty support during the first 7 years of its existence.

In the case of Wright State, that 7-year period will have run its course at the end of this month and the university will be left with unexpended grant funds. It will lack authority to spend those funds unless this measure is enacted.

Unanticipated delays in completing the faculty rosters in the earliest days of the Wright State Medical School's existence gave rise to this situation. In effect, Wright State now is facing a possible penalty for having exercised prudence in the expenditure of its grant awards. And the possibility exists that at least one or two of the other four medical schools that were established under Public Law 92–541 might also face this same problem further down the road.

Passage of this bill will extend by 12 months the time in which these medical schools can expend their grant awards for faculty support. It will authorize no new appropriations. Nor will it appropriate any additional funds. All that it will do is to help these schools adjust to termination of their grant programs.●

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

CONSTITUTION FOR THE U.S. VIRGIN ISLANDS

Mr. WEICKER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 238.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (H.J. Res. 238) to approve a constitution for the United States Virgin Islands.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Connecticut?

There being no objection, the Senate proceeded to consider the bill (H.J. Res. 238) to approve a constitution for the U.S. Virgin Islands, which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 2, line 4, after "approved" insert "for submission to the people of the Virgin Islands in accordance with the provisions of Public Law 94–584 (90 Stat. 2809)";

On page 3, line 5, strike "the" and insert "due";

On page 9, line 5, strike "descendent" and insert "descendant";

On page 39, line 12, strike "Senate" and insert "legislature";

On page 40, line 6, strike "VIII" and insert "VII";

On page 41, in the signature clause strike "Ruby Simmonds, Vice" and insert "Ruby Simmonds, 1st Vice":

Mr. WEICKER. Mr. President, at the heart of the American experience is the principle of government by the consent of the governed. House Joint Resolution 238 expresses the consent of the Congress to the implementation of that principle in the Virgin Islands.

Since the Virgin Islands were acquired from Denmark, there has been a constant growth of local self-government. The Organic Act of 1936 and the revised Organic Act of 1954 placed increasing responsibility for local government in the hands of the U.S. citizens residing in the Virgin Islands. With the passage of the Elective Governor Act in 1968, the Virgin Islands became self-governing except for one basic fact. That fact is that their self-government was not a product of their wishes and desires, expressing their hopes and aspirations, but was a product of what the Federal Government determined would be best.

For local government to be truly self-government, it must be the result of the people themselves, pursuant to a constitution of their own design. This resolution, quite properly, does not express any opinion as to the merits of any provision of the constitution. That decision is reserved for the people of the Virgin Islands, as it should be. The resolution quite simply states that the constitution meets the requirements of the original authorization. It acknowledges the sovereignty of the United States and the supremacy of the U.S. Constitution.

It provides for a republican form of government and a bill of rights. It addresses the subject matter of local government provisions of Federal law. The judgment on how those requirements were met is now up to the people of the Virgin Islands. The committee has adopted an amendment to clarify that Congress is reserving to the people of the Virgin Islands the final decision on the constitution and several technical changes recommended by the convention.

Mr. President, the members of the Fourth Virgin Islands Constitutional Convention should be commended for their efforts and dedication. I urge the Senate to approve the joint resolution with the committee amendments so that the U.S. citizens residing in the Virgin Islands may enjoy true local self-government.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, House Joint Resolution 238, as reported by the Committee on Energy and Natural Resources, expresses the consent of the Congress to the submission of the fourth constitution of the Virgin Islands to the voters in the Virgin Islands for approval or rejection in accordance with the provision of Public Law 94–584.

The constitution was developed pursuant to the authorization of Public Law 94–584 by a local constitutional convention and submitted to the President for review and comment on August 26, 1980. The President transmitted the constitution to the Congress on October 25, 1980. In order to afford the Congress sufficient time to review the constitution for procedural compliance with the requirements of the authorization, the period for review was extended by section 501 of Public Law 96–597.

House Joint Resolution 238 was considered and approved by the House and was the subject of a hearing before the Committee on Energy and Natural Resources on May 8, 1981. As a result of that hearing and the committee review, the committee unanimously ordered the measure favorably reported on May 12, 1981, with technical amendments to correct typographical errors noted by the convention and to clarify that the congressional approval is procedural only and does not constitute enactment of the constitution nor any opinion as to the merits of any provisions.

This congressional review is important not only because the constitution places the plenary authority and responsibility for territorial affairs in the Congress, but because constitutional government is at the heart of the American experience. The efforts of the U.S. citizens in the territories to develop local self-government should receive congressional recognition and support.

In reviewing the document it was necessary to strike a careful balance between the desires of the local population and the continuing responsibility of the Congress. There are aspects of this constitution which I might not support were they proposed as Federal law, but they are not being so proposed. The Congress in approving the constitution will not be enacting it into law but will be consenting to permit it to be put before the voters in the Virgin Islands for final judgment. That is where the merits of this constitution should be judged.

The development of institutions and processes of local self-government has been the purpose of organic legislation for the territories since the northwest ordinance. In the Virgin Islands, organic legislation since 1917 has placed increasing control over local government in the hands of the U.S. citizens residing there. The most recent developments, such as the elective governor, were in large measure a response to the desires of the Virgin Islands, and to the recommendations of the first constitution of the Virgin Islands. The final step, as provided by Public Law 94–584, is to permit the Virgin Islands to formulate a constitution as the basic document for local self-government.

Approval of the constitution will not affect the status of the Virgin Islands as an unincorporated territory of the

United States, nor lessen the plenary authority and responsibility of the Congress for the Virgin Islands. It will represent, however, a commitment by the Congress to not exercise its authority in the future on matters of local government. To that end I have requested the administration to provide a drafting service to identify those provisions of Federal law affecting local government in the Virgin Islands which must be repealed before the constitution can become fully effective. It is my intention to consider those repeals expeditiously so that there will be no hiatus between the effective date of constitution and the removal of Federal law.

I congratulate the members of the convention for their dedication and their efforts. It is an exceedingly difficult job to balance competing interests, as the experience of the third constitution demonstrates. While, as I indicated, I might not agree with all their conclusions, I will respect their judgment.

Federal relations and ultimate status remain as issues for future discussion and are not foreclosed by this constitution. Those issues involve different considerations and require the active participation and specific consent of the Congress. This constitution should be the product of the people of the Virgin Islands and I believe we should defer to them. On questions, however, of status or Federal relations, I believe we should not attempt to avoid the responsibilities imposed on the Congress by the constitution, although we should be sympathetic to local wishes.

Last Congress, I cosponsored an amendment with Senator JOHNSTON, Senator JACKSON, and Senator MATSUNAGA which would have established a 4-year commission to examine the entire body of Federal law which constitutes Federal relations, that is, the allocation of authorities and responsibilities between the Federal and local government. I continue to believe that such a comprehensive review is essential. I am concerned that too often questions of Federal relations, such as environmental laws or coastwise legislation, become wrapped in the rhetoric of status. I would hope the Virgin Islands can avoid that.

Acceptance of this constitution by the voters in the Virgin Islands will make the territory self-governing. That is an important step and again I congratulate the members of the convention for their efforts.

Mr. President, I strongly support House Joint Resolution 238 and urge its passage.

● Mr. JOHNSTON. Mr. President, I strongly support the passage of House Joint Resolution 238 as amended by the Committee on Energy and Natural Resources. In 1976 I cosponsored the original legislation which authorized the convening of a constitutional convention in the Virgin Islands. That legislation was the direct result of the efforts of Congressman RON DE LUGO, with the effective support of the leadership in the Virgin Islands. It was their request that the Congress entrust to the U.S. citizens residing in the Virgin Islands the basic decisions in the institutions and processes of local self-government. I think that trust has been well rewarded.

Although I would not agree with every provision of the constitution, it does represent the judgment of the delegates to the convention. The ultimate decision will be with the voters in the Virgin Islands and their decision will be respected.

Over the past several years, I have had the pleasure of working with a great many individuals from the Virgin Islands including former Governor Paiewonsky, Congressman RON DE LUGO, and others for whom I have the highest respect and admiration. It has been their leadership and representation which forms the true basis for the development of constitutional self-government. Whatever the final decision of the people of the Virgin Islands may be, I think they, and we, can take pride in the importance and judgment which our fellow citizens in the Virgin Islands have exercised.

In addition to Congressman RON DE LUGO, the original sponsor of this resolution, a special commendation is owed to the members of the convention. During the committee hearings I was impressed by the delegates who testified. The president of the convention, Rupert Ross, Judge Henry Feuerzeig, Ruby Simmonds, and Bent Lawaetz, together with Alexander Farrelly, the counsel to the convention, demonstrated that the Congress' trust in the Virgin Islands was not misplaced. Mr. John James, another delegate, eloquently pointed out that drafting a constitution is not an easy process and that our fellow citizens in the Virgin Islands will have many issues to consider.

Mr. President, I agree with the comments made by the chairman of the committee and I urge the favorable consideration of this resolution.●

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, the minority has no objection, and we are delighted to support the joint resolution. We suggest we move to passage.

Mr. WEICKER. Mr. President, are there committee amendments that have to be agreed to at this time?

The PRESIDING OFFICER. Does the Senator wish that the amendments be agreed to en bloc?

Mr. WEICKER. The Senator so requests.

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc.

The committee amendments were agreed to en bloc.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the joint resolution.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution (H.J. Res. 238) was read the third time, and passed.

The preamble was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

RECESS UNTIL 11 A.M. TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11 a.m. tomorrow.

There being no objection, the Senate, at 5:23 p.m., recessed until Thursday, June 4, 1981, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate June 3, 1981:

DEPARTMENT OF DEFENSE

Russell D. Hale, of Virginia, to be an Assistant Secretary of the Air Force, vice Charles William Snodgrass, resigned.

COMMODITY CREDIT CORPORATION

Richard E. Lyng, of Virginia, to be a Member of the Board of Directors of the Commodity Credit Corporation, vice James H. Williams, resigned.

Frank W. Naylor, Jr., of California, to be a Member of the Board of Directors of the Commodity Credit Corporation, vice Malcolm Rupert Cutler.

Mary Claiborne Jarratt, of Virginia, to be a Member of the Board of Directors of the Commodity Credit Corporation, vice Carol Tucker Foreman.

DEPARTMENT OF ENERGY

J. Erich Evered, of Nevada, to be Administrator of the Energy Information Administration, vice Lincoln E. Moses, resigned.