SENATE—*Tuesday, May 20, 1980*

(Legislative day of Thursday, January 3, 1980)

The Senate met at 12 o'clock noon, on the expiration of the recess, and was called to order by Hon. CARL LEVIN, a Senator from the State of Michigan.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God and Father of us all, guardian of our pilgrim days for this moment we would turn from the tumult of the world without and the pressure of duties within, that we might commune with Thee and discern more clearly Thy will for us and for our Nation. Quicken within us every noble impulse, pure purpose, and wise action. Give us hearts free from malice and filled with good will.

Bless this Nation with justice and truth and righteousness. Be with all who serve under the banner of government, in the Armed Forces and those held as hostages. Minister to those who suffer the ravages of hunger, disease, and violence. Give us faith to see beyond the troubles of today the working of Thy providence in the affairs of men. May we ever walk and work in the way of Thy Commandments.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 20, 1980.

To the Senate:

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

WARREN G. MAGNUSON,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

THE JOURNAL

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

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

LAST WEEK'S DECISION OF THE CIVIL AERONAUTICS BOARD

Mr. ROBERT C. BYRD. Mr. President, last week's decision of the Civil Aeronautics Board virtually removed all regulatory restraints from short-haul air transportation flights. In a nutshell, that means airlines can charge any rates they see fit on flights of less than 200 miles. I am appalled at this decision—appalled because it invites the airlines to raise air fares which have increased steadily since airline deregulation went into effect in 1978.

This decision by the CAB effectively discriminates against the short-haul markets. Under the Board's new policy, all regulatory control has been removed from flights of less than 200 miles, but regulatory protection is retained for longer routes. The CAB's order states that airlines can boost air fares up to 50 percent in markets of 200 to 400 miles long, and fares can be increased by up to 30 percent in markets exceeding 400 miles. The obvious question is, "Why protect the long-haul routes and not the short-haul trips?"

It also appears that the Board is accelerating unnecessarily the timetable for removing these regulatory restraints. The Air Transportation Regulatory Reform Act of 1978 specifies January 1983, as the date when the CAB relinquishes all authority from ratesetting. That deadline is more than 2½ years away. Deregulation has not been in effect long enough for airlines to shore up on the ingredients needed for better service—accessibility of fuel, availability of suitable airplanes, and airport accessibility.

I also question the rationale of the CAB in making this decision. The Board based its decision on the conclusion—and I am now quoting from the agency's own news release—"that competitive forces will keep fares in check and that a ceiling is no longer required."

I am bewildered over this reference to competitive forces. It is on these short-haul trips that competition is lacking. If I want to fly from Charleston, W. Va., to Cincinnati, Ohio, there is only one airline to which I can turn. The same can be said for most points within West Virginia and, in fact, for most interstate points across the country. This is not a local phenomenon—it exists all over the Nation. And, all too often, poor road maintenance, unpredictable weather conditions, inadequate bus service, and inadequate rail passenger service eliminate the alternative of effective surface transportation. Instead of alluding to nonexistent competition, the CAB should note that short-haul markets more realistically approach monopolistic situations. And we all know what occurs when a monopoly exists—prices go up.

So I am apprehensive that this latest directive from the CAB will lead to even higher air fares—putting air transportation out of the reach of most Americans.

Congress enacted airline deregulation in 1978 as a curb to inflation, in hopes that it would result in more efficient airline service, conducted in a freer environment, and, because of increased competition, lower air fares. To date, the evidence points to many instances of deterioration of service for community airports and their customers.

Airports in small- and medium-sized communities across the country have lost 9,000 airline seats per week since deregulation took effect. West Virginia—which was hardest hit with a loss of 3,000 airline seats—does not stand alone. Many States—Arizona, Nebraska, Idaho, Oregon, and Tennessee, to name just a few—also have suffered at the hands of airline deregulation. Most of the New England States—Connecticut, Maine, New Hampshire, and Vermont—have had a significant deterioration in air service amid our new deregulated atmosphere.

And, in addition to this loss of service, air fares already have skyrocketed. The cost of flying from West Virginia's State capital, Charleston, to Pittsburgh—a point where many travelers make connections and a trip of less than 200 miles by air—has jumped 77 percent following deregulation. And, from Charleston to Morgantown, the State's educational center, air fares are up 58 percent. And when I fly back to Charleston from the Nation's Capital, it costs me 77 percent more today than it did before airline deregulation took effect.

In announcing its decision, the CAB stated that it would monitor the industry's performance—and "would take action to reduce fares if abuses of market power were demonstrated." I support this watchdog role by the CAB.

But I, too, hope that the actions of the airlines in setting their own rates in the short-haul market will be closely observed by the appropriate committees of the Congress. But I, too, will be diligent in observing the actions of airlines in setting their own rates in the short-haul markets.

I have been disappointed with the results of airline deregulation. The deregulated atmosphere was supposed to have blessed us with numerous benefits, including better service and lower fares. Instead, in many instances, we have suffered from loss of airline seats and skyrocketing rates.

There is a need to insure that adequate air service, as provided under the

law, is available. I believe an integral part of adequate air service is fair rates. We cannot afford to price our citizens and our communities out of the airline market.

I wish to commend Mr. CANNON, who has arranged oversight hearings on the part of the Aviation Subcommittee of the Commerce Committee, regarding the role of the CAB, and I hope the committee will continue to monitor the situation which, I think, has deteriorated considerably with respect to air service and air fares, particularly in the rural areas and in the small and medium-sized communities of our country.

DEATH OF ROBIN CRANSTON

Mr. ROBERT C. BYRD. Mr. President, we were all saddened to learn of the death of Robin Cranston, the eldest son of our distinguished colleague, Senator ALAN CRANSTON. Robin passed away Friday from injuries he received in an automobile accident the previous weekend.

This is an incalculable loss to Senator CRANSTON and his family. We, his friends, share that deep sense of loss.

I know that I speak for all of his colleagues in extending our heartfelt sympathy to Senator CRANSTON and his family. They will remain in our thoughts and our prayers.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is now recognized.

Mr. SCHMITT. Mr. President, the minority has no requests for any time on the leadership time. I believe there are two special orders. I am prepared to yield back the minority leader's time.

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

RECOGNITION OF SENATOR SCHMITT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Mexico is recognized for not to exceed 15 minutes.

THE GREAT CRUDE HOAX

Mr. SCHMITT. Mr. President, about 2 or 3 weeks ago, the distinguished minority leader (Mr. BAKER) asked if I would look into and provide him with some analysis of the state of the oil and gas resource base in the world and particularly that accessible directly to the United States.

I have done that in a preliminary way and have found that, as I suspected, once again the country is being subjected to the great crude hoax.

There is a myth afoot, Mr. President, that the United States cannot depend on domestic energy supplies for short-term independence of foreign sources of crude oil. This myth, fostered by the present administration and others ignorant of the capabilities of this great Nation, goes on to state that we must think in terms of "limits"; limits on growth, limits on power, limits on freedom.

This myth is the most dangerous basis upon which we could formulate and, unfortunately, have formulated current national policies. This myth is an invitation to national suicide.

The myth of national limits permeates the recent statement by CIA Director Stansfield Turner before the Senate Energy and National Resources Committee. For example:

> There is good reason to believe that the most prolific oil producing areas have already been located and drilled. Even with modern technology, the chance of finding new giant fields is diminishing.

Mr. President, this statement is wrong on its face and ignores the unexplored, potentially productive geologic basins of the world and particularly those of the United States.

Vast new oil and gas discoveries have recently been made in Sudan, in Kuwait in much deeper horizons than previously known to contain oil, near Indonesia in extensions of already producing fields, in an already oil- and gas-rich Mexico, in a vast new opportunity in Red China, in the Beaufort Sea near Alaska, in the Arctic Ocean north of magnetic North Pole, in the overthrust belt which parallels the length of the Rocky Mountains from Canada through the United States to Mexico.

Vast potential oil and gas reservoirs have yet to be drilled in and near Alaska, off the Atlantic and Pacific coasts of the United States, throughout and near Africa and Central and South America and in other regions accessible to the free world.

New technologies not only are reducing the risk of drilling for new oil and gas in old and new fields, but they are rapidly expanding the amount of oil in the ground that can be recovered. CIA Director Turner also stated that:

> Production in the U.S. probably will continue to decline despite heavy drilling activity; . . .

Again, Mr. President, this statement is very likely to be false and will be true only if Federal land, tax and regulatory policies continue to discourage a rapid increase in exploration, development and production of domestic oil and gas.

The release of favorable Federal lands for oil and gas leasing, the creation of tax incentives for the plowback of revenues into new or enhanced production, and the elimination of unnecessary regulatory restrictions on drilling and pipeline construction would, I believe, within 5 years, result in the identification of sufficient reserves to satisfy our immediate essential requirements and would have the effect of forcing world energy prices down to realistic levels.

Let us look at some of the facts:

First, all past estimates of the size of our domestic natural resource base—particularly that in energy—have been notoriously low because of the impossibility of estimating what can be called the "unknown unknowns." These unknown unknowns have included unpredicted changes in demand, prices, technology, and scientific understanding about the nature of the occurrence of natural resources.

Second, new exploration technologies combined with geologic insight have both expanded the list of favorable areas for oil and gas production and have decreased many of the risks of drilling for new oil and gas reservoirs. For example, where it was not so before, it is now reasonable to expect major discoveries in the vast overthrust belt of the Rocky Mountains, in stratigraphic as well as structural traps in new and old fields, and in heavy oil and tight rock formations throughout the United States and North America.

Third, giant and supergiant fields in North America are not a thing of the past as Prudhoe Bay and the Mexican fields clearly indicate. There are many basins in or near Alaska which have the potential as Prudhoe Bay. The total potential of the overthrust belt is that of several supergiant oilfields. The Pacific and Atlantic coasts, the Arctic, Bering, and Beaufort Seas, presently locked-up Federal lands in the lower 48 States and deep-drilling possibilities in many known fields all have such potential for giant and supergiant discoveries.

Fourth, for most of the last 25 years, Federal, corporate and international policies have discouraged extensive exploration for U.S. oil and gas reserves. Those reserves currently are about 62 billion barrels of oil and 400 trillion cubic feet of gas. The problems began, of course, in 1954 with the regulation of natural gas prices at artificially low prices which discouraged exploration, encouraged use, and forced oil investments abroad to compete with cheap natural gas. Little has improved this situation until domestic energy prices and profits began to be driven upward by artificially high world cartel prices.

At the current high price level, liberalized Federal land, tax and regulatory policies and focused corporate activity could rapidly increase the rate of addition of oil and gas reserves. Those reserves are currently about 2 billion barrels of crude and about 21 trillion cubic feet of natural gas per year with addition rates of 3 billion barrels and 20 trillion cubic feet per year required to sustain current domestic production rates.

Fifth, the land area identified with oil and gas potential is approximately 3,000,000 square miles. However, oil and gas production has been established in only about 50,000 square miles.

That is, land area in the United States and areas accessible to it.

This amounts to less than 2 percent which has been explored. Furthermore,

much of this production is from relatively shallow areas. The potential from deeper zones and many untested areas could yield tremendous quantities of new natural gas and oil. A table identifies 11 areas in the United States with geologic conditions favorable to oil and gas accumulation and estimated cubic miles of potentially favorable sediments.

Mr. President, I ask unanimous consent that this table be printed in the RECORD at this point.

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

Area of interest	Suare miles of prospective basins	Cubic miles of promising sediments
1. Alaska	368,000	934,000
2. Pacific Coast States	126,133	251,508
3. Western Rocky Mountains	222,750	175,150
4. Northern Rocky Mountains	368,000	595,556
5. West Texas/East New Mexico	289,760	283,800
6. Western Gulf Basin	862,603	453,750
7. Mid-Continent States	278,600	290,200
8. Michigan Basin	122,000	37,000
9. Eastern Interior States	166,154	203,774
10. Appalachian States	130,000	305,000
11. Eastern Gulf/Atlantic Coast	268,000	558,700
Total, United States	3,202,000	4,088,437

Mr. SCHMITT. Finally. there are, for example, special category areas like the Texas gulf coast where estimates of upward of 105,000 trillion cubic feet of gas have been calculated to exist. This figure includes high pressure, hot salt water areas at depths of 8,000 to 25,000 feet. According to this source, if U.S. gas consumption is approximately 50 trillion cubic feet per year, only 10 percent of this special category gas would supply the needs of the entire Nation for 200 years.

Thus, prudence, commonsense, and a wish to survive should dictate the following basic elements in a national energy policy:

First, encourage efficient technologies that reduce the use of valuable, presently imported, and vulnerable energy supplies.

Second, encourage the most rapid possible development of discovered and undiscovered domestic crude oil resources until short-term control of the free world's energy situation is regained.

Third, encourage the most rapid possible development of discovered and undiscovered natural gas resources to prevent dependence on imports for this environmentally desirable fuel and unique natural chemical.

Fourth, encourage the production and use of coal and uranium for the generation of electrical power to avoid new dependencies on foreign crude oil and uranium in the early part of the next century.

And fifth, develop the technologies for alternative energy sources, such as synthetic fuels, nuclear fusion, and solar, which early in the next century can begin to replace the use of most fossil fuels and which can once again make energy an export for the United States.

With this energy policy must come the rejection of several politically popular myths that we are exposed to today:

First, the myth that we cannot depend on domestic crude oil and natural gas for essential short-term—20-years plus—independence from imports is unfounded in geological technological fact.

Second, the myth that energy must always be more expensive than it is now also is unfounded in technological and economic fact.

Third, the myth that domestic development of natural energy resources must mean the destruction of the environment is unfounded in scientific and technological fact.

Fourth, the myth that the taxpayer can support the capital requirements of both big government and the free enterprise system simultaneously is unfounded in economic fact and already has destroyed the growth of national productivity and innovation.

And fifth, again, the myth that our national growth must be restrained or stopped is unfounded in all respects and, if allowed to prevail, would mean the end of freedom on Earth.

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

RECOGNITION OF SENATOR TOWER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Texas (Mr. TOWER) is recognized for not to exceed 15 minutes.

RESTORING THE MILITARY BALANCE

Mr. TOWER. Mr. President, during my 19 years in the Senate—spanning the administrations of five Presidents—I have always tried to work with the Chief Executive as the symbol of our Nation's power and prestige in the world. But the time has come for us in the Senate to realize that this President is not protecting our vital interests. It is with sadness that I assert today this President has brought U.S. credibility with both allies and adversaries to an all-time low. The Congress must step in and do its part if we are to put our Nation back on track.

The perfidy and deception Jimmy Carter has used to mislead the American people and our allies on defense spending has resulted in a fundamental shift in the strategic military balance. The dangerous international environment which has been kindled by the President's weakness and vacillation holds grave risks for our economic well-being and our security, and cannot be allowed to continue. For more than 3 years, while hiding behind a smoke screen of tough rhetoric, Jimmy Carter has presided over the most ominous shift in the balance of power in modern history. But even after the effect of this shocking deterioration in our might has been made undeniably clear by the Soviet seizure of Afghanistan, the President still refuses to face facts, and request enough money from Congress to begin restoring the military balance.

Let us look at the record of what the President has done: We are all aware of the long litany of cancellations, deferred and slowed-down programs, ranging from the MX to the Trident submarine. The cruise missile, the B–1 bomber, the enhanced radiation weapon—and other important programs—have been victims to this process. But even more critical has been a general short changing of defense spending. Even after his own Secretary of Defense told him the Soviets had outspent us on military power during the 1970's by $240 billion, what did Carter do about it?

In September 1979, he reneged on his pledge to our NATO allies to increase spending after inflation by 3 percent, and instead called for real growth of less than 1 percent.

In the same month, he vigorously opposed our efforts in the Senate to raise defense spending by a modest 5 percent in fiscal year 1981 and 1982.

When he lost that battle, the President pledged to Congress he would support a defense spending bill for 1981 which would increase the amount spent for our national defense by more than 5 percent—and he further promised he would keep that real growth intact by raising it further to compensate for inflation. That promise—made in December—was the minimum he could responsibly do, since his own Secretary of Defense recommended more than 7 percent real growth for the 1981 budget year.

But in March, both the President and the Secretary of Defense broke their promise to compensate for what proved to be hopelessly inadequate inflation allowances. By this time, his 5-percent increase had dwindled to less than 3 percent. I might interject at this point, Mr. President, that percentages in themselves have no meaning. The important thing is meeting our needs, whatever the percentage figure might be.

However, it is important to note that the President requested less than $1 billion for new programs—after the Afghanistan invasion, and despite reports from the chiefs of each military service that 10 times that much would be required to cope with the increased threat represented by the new Russian presence on the edge of the Persian Gulf.

But he did not stop there. Less than a month later, he supported an attempt in the House to reduce spending below his own January proposal.

And the last straw comes in the President's letter last week to the chairman of the Senate Armed Services Committee in which he opposes four vital defense initiatives. These are production of a modified B–1 aircraft, reactivation of the carrier *Orinskany* and the battleship *New Jersey*, procuring 24 more F–18 aircraft, and adding 2 submarines and 2 frigates to the shipbuilding program for 1981.

These steps must be taken immediately

if we are to begin to solve our most critical defense problems. In the case of the F–18 aircraft, buying more would actually lower each aircraft's cost.

The sad—and dangerous—results of this shoddy record of deceit and inconstancy is to create grave risks for world peace. It calls into question our strength as an adversary and our worthiness as an ally. As each day's headlines make more clear, time is running out. We must call a halt to the steady degradation of our military capacity and begin the difficult process of rebuilding our strength.

It will be immeasurably easier to do that if the President will acknowledge the problems and work with us. But with or without his leadership, we must act now.

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

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 5 minutes each.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

COMMISSION ON CIVIL RIGHTS AUTHORIZATION, 1980

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 2511, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 2511) to amend the Civil Rights Act of 1957 to authorize appropriations for the United States Commission on Civil Rights for fiscal year 1981.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment on page 1, line 4, beginning with "by" strike through and including line 5, and insert a dash and the following:

(1) by striking out "$14,000,000" and inserting in lieu thereof "$11,719,000"; and

(2) by striking out "1980" and inserting in lieu thereof "1981".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 106 of the Civil Rights Act of 1957 (42 U.S.C. 1975e) is amended—

(1) by striking out "$14,000,000" and inserting in lieu thereof "$11,719,000"; and

(2) by striking out "1980" and inserting in lieu thereof "1981".

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BAYH. Mr. President, today the Senate begins consideration of S. 2511, the fiscal year 1981 authorization for the U.S. Commission on Civil Rights. As we all know, the U.S. Commission on Civil Rights is an independent bipartisan agency established by Congress in 1957 to:

First. Investigate complaints alleging denial of the right to vote by reason of race, color, religion, sex, handicap, or national origin, or by reason of fraudulent practices;

Second. Study and collect information concerning legal developments constituting discrimination or denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;

Third. Appraise Federal laws and policies with respect to discrimination or denials of equal protection of the laws because of race, color, religion, sex, handicap, or national origin; and

Fourth. Submit reports, findings, and recommendations to the President and the Congress.

I do not believe that I need recite the long list of accomplishments of the Commission to date: They are well known to all. Let me just say though, that in the early years of the civil rights struggle and during the legislative battles of the last decade, the laws we passed were on issues that dealt with the fundamental precepts of this Nation. Then, as today, the Commission was on the forefront of the fight, defending the freedoms all Americans are supposed to have as a birthright.

In 1979, Congress once again extended the Commission's existence for an additional 5 years, but required it to seek annual monetary authorizations during this 5-year period. Last year, Congress authorized the Commission to spend $14.0 million, the level S. 2511 would have continued. However, the Commission became a victim of its own fiscal restraint during the Committee on the Judiciary mark-up of this bill. By requesting appropriations of only $11.7 million for the current fiscal year and $12.1 for fiscal year 1981, the Commission has demonstrated a remarkable ability rarely found in the Government or in business, for that matter, of clearly living within its budget. The only increases requested this year by the Commission was for $424,000 for uncontrollable costs. For this restraint the Commission was viewed as not needing the additional money either in the President's request or in last years authorization despite the increased authority granted in 1979 without a matching increase in appropriated funds.

There were those in the committee who argued that our country's civil rights problems were past and a glorious new era free of discrimination was before us. In this perfect world no commission on civil rights would be needed, so to begin with the Commission's budget was to be cut back by restricting it to last fiscal year's appropriation. Unfortunately, these dreamers of utopia spoke too soon; the Kerner Commission's opposite view of increasingly separate societies for blacks and whites has turned out to be the true predictions. It has become gruesomely evident with the unfolding events in Miami that little has changed. Clearly, events would belie the rosy picture painted by some members of the committee and support the view that justice for minorities is still uneven, that there is still massive discrimination against blacks and other minorities in this country, and that the search for solutions must go on.

For the last 23 years the Commission on Civil Rights has carried on just that type of search. It has labored to protect all Americans from an erosion of their constitutional and civil rights. The Commission has been able to do this in a unique manner, for it has no authority to issue regulations or to litigate any matter. It merely has the authority to point out the situations that have resulted in a deprivation of rights and to recommend a remedy. We in Congress, then, must move to correct the situation by implementing the remedy through legislation.

While support of the Commission on Civil Rights is but a small part of the search for equal justice for all Americans, I believe it is an essential one; one I hope all my colleagues would support. I for one, find it difficult to support the committee's position, although I feel I must. With this budget, the Commission will be forced to reduce its activities and limit the number of studies undertaken during the fiscal year. I would expect that the Commission would limit its new initiatives in such areas as the age, handicap or Euro-ethnic studies and concentrate on those areas with which the Commission has developed expert knowledge and staff over the last 23 years. I trust the Commission will submit a supplemental request for additional authorization and appropriations if the reductions reflected in this bill result in the cancellation of activity concerning these new initiatives.

With this understanding, I will support the bill and ask that the Senate pass it as amended.

Mr. THURMOND. Mr. President, today, we are considering the reauthorization of the Civil Rights Commission as part of our annual congressional oversight.

While this Commission has indeed been active over its 20-year history, some people are concerned that the Commission, at times has dramatically stretched its congressional mandate. Many such concerns were heard by the Senate last year. The Commission must react responsibly to those criticisms and act only within the parameters of its congressional directive.

Mr. President, it is very important that the Civil Rights Commission consider the views of all segments of minority groups. At times, people make an unwarranted assumption that members of various minority groups are the same; that they all feel exactly the same way on every subject. This assumption is an unacceptable stereotype. Members of minority groups in this country are just as diverse in their attitudes and beliefs as are members of the majority. The Commission must insure that all segments of these diverse groups, not just a select few, are heard.

Another minority which has been created in this country are those persons who are adversely affected by reverse discrimination. This group represents those people who, through no fault of their own, are subjected to unequal burdens. No ongoing review of the plight of the disadvantaged in this country would be complete without a study of the impact of discrimination on these persons. A complete study of this area should be part of the Commission's agenda in the next year.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Without objection, it is so ordered.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT AMENDMENTS OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending measure be temporarily laid aside and that the Senate proceed with the other measure, S. 2441.

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

The legislative clerk read as follows:

A bill (S. 2441) to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE

SECTION 1. This Act shall be cited as the "Juvenile Justice and Delinquency Prevention Act Amendments of 1980".

TITLE I—AMENDMENTS TO TITLE I OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

SEC. 101. Section 101(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended—

(1) by striking out "and" immediately after the semicolon in paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(8) the justice system should give additional attention to violent crimes committed by juveniles, particularly to the areas of identification, apprehension, speedy adjudication, sentencing, and rehabilitation.".

SEC. 102. (a) Paragraphs 5 of section 103 of that Act is amended to read as follows:

"(5) the term 'Administrator' means the agency head designated by section 201(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended;"

(b) Section 103(7) of that Act is amended by inserting after "Pacific Islands" the following: "the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands,".

(c) Section 103(9) of that Act is amended by striking out "law enforcement" and inserting "juvenile justice".

(d) Section 103(1) of that Act is amended by inserting "special educational," immediately before "vocational".

(e) Section 103(12) of that Act is amended by striking out "and" immediately after the semicolon.

(f) Section 103(13) of that Act is amended

(1) by inserting "special educational," immediately before "social"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and".

(g) Section 103 of that Act is amended by adding at the end thereof the following:

"(14) The term 'handicapping conditions' means the conditions described in the definition of the term 'handicapped children' in section 602(1) of the Education of the Handicapped Act (20 U.S.C. 1401).".

TITLE II—AMENDMENTS TO TITLE II OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

SEC. 201. (a) Section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended to read as follows:

"SEC. 201. (a) There is hereby established within the Department of Justice under the general authority of the Administrator of the Law Enforcement Assistance Administration, the Office of Juvenile Justice and Delinquency Prevention (referred to in this Act as the 'Office'). The Office shall be under the direction of an Administrator, who will be nominated by the President by and with the advice and consent of the Senate. The Administrator shall administer the provisions of this Act through the Office. The Administrator shall have final authority to award, administer, modify, extend, terminate, monitor, evaluate, reject, or deny all grants, cooperative agreements and contracts from, and applications for, funds made available under this title.

"(b) The Administrator may prescribe, in accordance with section 553 of title 5, United States Code, such rules and regulations as are necessary or appropriate to carry out the purposes of this title.".

(b) Section "201(e)" of that Act is renumbered "201(c)" and amended by striking out "of the Law Enforcement Assistance Administration".

(c) Section "201(f)" of that Act is renumbered "201(d)".

(d) A new subsection "(e)" is added to read as follows:

"(e) There shall be established in the Office a Legal Advisor who shall be appointed by the administrator whose function shall be to supervise and direct the Legal Advisor Unit whose responsibilities shall include legal policy development, implementation, and dissemination and the coordination of such matters with all relevant departmental units. The Legal Advisor, when appropriate, shall consult with the Law Enforcement Assistance Administration and the Office of Justice Assistance, Research, and Statistics on legal nonpolicy matters relating to the provisions of this Act.".

(e) Section "201(g)" of that Act is renumbered "201(f)" and amended by striking out "-five" and inserting "-six".

(f) New subsections "(g)" and "(h)" are added to read as follows:

"(g) The Administrator shall provide the United States Senate Committee on the Judiciary and the United States House of Representatives Committee on Education and Labor with a detailed evaluation of the Rahway Juvenile Awareness Project, the so-called 'Scared-Straight' program or other similar programs, no later than June 30, 1981.

"(h) The administrator, in cooperation with the Director of the Bureau of Indian Affairs, shall conduct a study of juvenile justice and delinquency prevention policies, programs, and practices affecting native Americans and shall report on the results of that study to the United States Senate Committee on the Judiciary and the United States House of Representatives Committee on Education and Labor no later than December 31, 1981. Such report shall contain recommendations regarding actions which should be taken, including suggested legislation, and shall address, at a minimum, the nature and quality of juvenile programs on Indian reservations, the impact of Federal Government activities on such programs, the consistency of ongoing efforts with the objectives of the Juvenile Justice and Delinquency Prevention Act, and the juvenile justice relationships between Indian tribes and contiguous units of local government.".

SEC. 202. (a) Section 204(b) of that Act is amended by striking out ", with the assistance of Associate Administrator,".

(b) Section 204(g) of that Act is amended by striking out "Administration" and inserting "Office".

SEC. 203. Section 207(c) of that Act is amended by inserting "and other handicapping conditions" immediately after "learning disabilities".

SEC. 204. Section 208(d) of that Act is amended by striking out "Corrections" and inserting "Justice".

SEC. 205. (a) Section 222(a) of that Act is amended by striking the last "and" and inserting immediately after "Pacific Islands" the following: ", the Commonwealth of the

Northern Mariana Islands, and any territory or possession of the United States,".

(b) Section 222(b) of that Act is amended by striking out "the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands" and inserting "as defined in section 103(7),".

SEC. 206. (a) Section 223(a) of the Act is amended to read as follows:

"(a) In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes in accordance with regulations established under this title, such plan must—".

(b) Section 223(a)(3)(iii) of that Act is amended by striking out "established pursuant to section 203(c) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended".

(c) Section 223(a)(3)(iv) of that Act is amended by striking out "section 520(b) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended," and inserting "section 1002 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended,".

(d) Section 223(a)(3)(B) of that Act is amended by inserting "special education," immediately before "or youth services departments".

(e) Section 223(a)(3)(C) of that Act is amended—

(1) by inserting "special education" immediately before "or social services for children"; and

(2) by inserting "and other handicapping conditions" immediately after "learning disabilities".

(f) Section 223(a)(15) of that Act is amended by striking out "mentally retarded and emotionally or physically".

(g) Section 223(a) of that Act is amended by striking out the last sentence.

(h) Section 223(c) of that Act is amended by striking out ", with the concurrence of the Associate Administrator,".

(i) Section 223(d) of that Act is amended by striking out ", in accordance with sections 509, 510, and 511 of title I of the Omnibus Crime Control and Safe Streets Act of 1968,".

SEC. 207. Section 224(a)(11) of that Act is amended by inserting "and other handicapping conditions" immediately after "learning disabilities".

SEC. 208. The Juvenile Justice and Delinquency Prevention Act of 1974 is amended by substituting "Priority Juvenile" for "Special Emphasis" each time it appears.

SEC. 209. Section 225(b)(5) and (6) of that Act is amended by striking out "planning agency" and inserting "advisory group".

SEC. 210. Section 225(b)(8) of that Act is amended by striking out "agency" the first time it appears and inserting "advisory group".

SEC. 211. (a) Section 228(b) of that Act is amended by striking out "not funded by the Law Enforcement Assistance Administration,".

(b) Section 228(g) of that Act is amended—

(1) by striking out "part" and inserting "title"; and

(2) by striking out "or will become available by virtue of the application of the provisions of section 509 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended".

SEC. 212. (a) Section 241(c) of that Act is amended by striking out "Law Enforcement and Criminal".

(b) Section 241(d) of that Act is amended by inserting "and special educational" immediately after "other educational".

SEC. 213. (a) Section 261(a) of that Act is amended to read as follows:

"(a) To carry out the purposes of this title there is authorized to be appropriated $150,000,000 for each of the fiscal years ending September 30, 1981 and 1982, $175,000,000 for the fiscal year ending September 30, 1983, and $200,000,000 for each of the fiscal years ending September 30, 1984 and 1985. Appropriated funds not obligated by the end of each fiscal year, shall be allocated directly to the States participating in the Act on the basis of relative population of people under age eighteen for the purpose of implementing section 223(a)(13), no later than January 1, of the subsequent fiscal year.".

(b) Section 261(b) of that Act is amended to read as follows:

"(b) In addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, there shall be maintained from appropriations for each fiscal year, at least 19.15 per centum of the total appropriations under title I of the Omnibus Crime Control and Safe Streets Act of 1968, for juvenile delinquency programs, with emphasis on programs aimed to curb violent crimes committed by juveniles, namely, murder, forcible rape, robbery, aggravated assault, and arson involving bodily harm, particularly to the areas of identification, apprehension, speedy adjudication, sentencing and rehabilitation. This subsection shall be waived when the total appropriations for each fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 do not exceed $150,000,000. Implementation, including guidelines, of this subsection shall be the responsibility of the Administrator of the Office.".

SEC. 214. Section 262 of that Act is amended to read as follows:

"SEC. 262. Of the appropriation for the Office under this Act, there shall be allocated an adequate amount for administrative expenses other than those support services performed for the Office by the Office of Justice Assistance, Research, and Statistics.".

SEC. 215. Section 262 (a), (b), and (c) of that Act are amended to read as follows:

"SEC. 263. The amendments made by the Juvenile Justice and Delinquency Prevention Act Amendments of 1980 shall take effect upon enactment.".

TITLE III—AMENDMENTS TO THE RUNAWAY YOUTH ACT

SEC. 301. Amend the caption "TITLE III—RUNAWAY YOUTH" by inserting "AND HOMELESS" immediately after "RUNAWAY".

SEC. 302. Section 301 of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended by inserting "and Homeless" immediately after "Runaway,".

SEC. 303. (a) Section 302(1) of that Act is amended by adding "or who are otherwise homeless" after "permission".

(b) Section 302(2) of that Act is amended by adding "and homeless" after "runaway".

SEC. 304. (a) Section 311 of that Act is amended by inserting "(a)" immediately after "SEC. 311.".

(b) Section 311 of that Act is amended by adding at the end thereof the following:

"(b) The Secretary is authorized to make grants for the purposes of providing a national telephone communications system to link runaway and homeless youths with their families and with service providers.

"(c)(1) In addition, the Secretary is authorized to make grants and to enter into contracts with governmental and nonprofit private agencies for the purposes of providing counseling and other services to meet the immediate needs of runaway or otherwise homeless youth, youth in trouble or in crisis, and the families of such youth, in a manner which is outside the law enforcement structure and juvenile justice system.

"(2) The Secretary may provide technical assistance and training to such agencies who receive grants or enter into contracts under this subsection.

"(3) The size of the grant or contract shall be determined by the number of such youth and families in the community and the existing availability of such services.".

SEC. 305. (a) Section 312(a) of that Act is amended by striking the period and inserting "or who are otherwise homeless.".

(b) Section 312(b)(5) of that Act is amended by inserting "and homeless" after "runaway" the first time it appears.

SEC. 306. (a) Section 315(1) of that Act is amended by adding "and homeless" after "runaway".

(b) Section 315 of that Act is amended—

(1) by inserting "(a)" immediately after "SEC. 315."; and

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

"(b) The Secretary is authorized to design the information instruments required to collect any information necessary to comply with the reporting requirements of this section, and to assess the need for, and to determine the effectiveness of, programs and services funded under this part.".

SEC. 307. Section 341(a) of that Act is amended to read as follows:

"(a) To carry out the purposes of part A of this title there is authorized to be appropriated $25,000,000 for each of the fiscal years ending September 30, 1981, 1982, 1983, 1984, and 1985.".

TITLE IV—MISCELLANEOUS CONFORMING AMENDMENTS

SEC. 401. Section 5316 of title 5, United States Code, is amended by striking out "Associate Administrator, Office of Juvenile Justice and Delinquency Prevention" and inserting "Administrator, Office of Juvenile Justice and Delinquency Prevention,".

SEC. 402. Section 4351(b) of title 18, United States Code, is amended by striking out "Associate".

SEC. 403. Section 1002 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"SEC. 1002. In addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, there shall be maintained from appropriations for each fiscal year, at least 19.15 per centum of the total appropriations under this title, for juvenile delinquency programs, with emphasis on programs aimed to curb violent crimes committed by juveniles, namely, murder, forcible rape, robbery, aggravated assault, and arson involving bodily harm, particularly to the areas of identification, apprehension, speedy adjudication, sentencing and rehabilitation. This section shall be waived when the total appropriations for each fiscal year under this title do not exceed $150,000,000. Implementation, including guidelines, of this section shall be the responsibility of the Administrator of the Office.".

SEC. 404. The Juvenile Justice and Delinquency Prevention Act of 1974 is amended by striking out "Associate" each time it appears.

Mr. BAYH. Mr. President, as chairman of the Subcommittee on the Constitution, Committee on the Judiciary, I

urge the Senate to adopt the Juvenile Justice and Delinquency Prevention Act Amendments of 1980 (S. 2441, as amended). This bill would extend the Juvenile Justice and Delinquency Prevention Act of 1974, including the Runaway Youth Act for 5 years, from fiscal year 1981 through fiscal year 1985. On May 7, 1980, the Committee on the Judiciary voted unanimously to report this bill favorably to the Senate. The cosponsors of S. 2441, as reported include Mr. KENNEDY, Mr. CULVER, Mr. DECONCINI, Mr. BAUCUS, Mr. MATHIAS, and Mr. DOLE.

Mr. President, this bill is designed to strengthen and stabilize our 6-year congressional commitment to the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDPA) while at the same time mandating that the Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) has final accountability and responsibility for implementing the juvenile justice provisions of this act. Section 820 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended in 1979, also retains this intent by specifying that all programs concerned with juvenile delinquency and administered by the Administrator of the Law Enforcement Assistance Administration shall be administered or subject to the policy direction of the Office of Juvenile Justice and Delinquency Prevention to carry out the mandates of the 1974 act.

In 1974, the Congress established juvenile crime prevention as the Federal crime priority. The 1974 act was the product of a 4-year bipartisan effort, which I was privileged to lead, to improve the quality of juvenile justice throughout the United States and to overhaul the Federal response to juvenile delinquency. The 1974 act was passed by a vote of 88 to 1 in this body.

In 1977, the Congress, by a unanimous vote, reauthorized the Juvenile Justice Act for 3 additional years to stabilize and revitalize our juvenile crime program. The bipartisan nature of this act's support from 1970 to the present is reflected in the act's cosponsors in this body over the years—Mr. Hruska, Mr. MATHIAS, Mr. Cook, Mr. McClellan, Mr. Fong, Mr. Phillip Hart, Mr. Hugh Scott, Mr. KENNEDY, Mr. THURMOND, Mr. BURDICK, Mr. Gurney, Mr. Abourezk, Mr. Bible, Mr. Brock, Mr. Case, Mr. CHURCH, Mr. Clark, Mr. CRANSTON, Mr. GRAVEL, Mr. Hubert Humphrey, Mr. McGee, Mr. Montoya, Mr. Moss, Mr. Pastore, Mr. RANDOLPH, Mr. RIBICOFF, Mr. MONDALE, Mr. CANNON, Mr. Eastland, Mr. CULVER, Mr. DECONCINI, Mr. HATFIELD, Mr. LEAHY, Mr. MAGNUSON, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. PELL, Mr. STEVENS, and Mr. HEINZ.

I originally introduced this measure as S. 3148 during the 92d Congress when it received strong support from youth-serving organizations and juvenile delinquency experts around the country. I reintroduced S. 821 on February 8, 1973, and S. 1021 on March 17, 1977.

The Senate Subcommittee to Investigate Juvenile Delinquency of which I was chairman, held extensive hearings that demonstrated the desperate need for this legislation. Expert witnesses, including State and local officials, representatives of private agencies, social workers, sociologists, criminologists, judges, and criminal justice planners testified on the terrible problems of the juvenile justice system which did not provide individual justice, effective help to juveniles, or protection for our communities. In particular, they repeatedly emphasized that large custodial institutions such as reformatories and training schools were nothing more than schools of crime, where juveniles learned the skills of the experienced criminal.

A clear consensus emerged supporting strong incentives for State and local governments to develop community-based programs and services as alternatives to training schools for many youngsters. This consensus was further expressed by the National Advisory Commission on Criminal Justice Standards and Goals which recommended that no new major institutions for juveniles should be built under any circumstances. The Commission provided additional support for the philosophy of the legislation that many delinquents, but especially noncriminal status offenders and neglected or dependent children, who had previously been institutionalized could be helped successfully in community settings.

During the early 1970's the hearings and investigations in Washington and throughout the country by the Subcommittee to Investigate Juvenile Delinquency (abolished in 1979 with the juvenile jurisdiction transferred to the Subcommittee on the Constitution) led me to two important conclusions.

The first is that our past system of juvenile justice was geared primarily to react to youthful offenders rather than to prevent the youthful offense.

Second, the evidence was overwhelming that the system failed at the crucial point when a youngster first got into trouble. The juvenile who took a car for a joy ride, or vandalized school property, or viewed shoplifting as a lark, was confronted by a system of justice often completely incapable of responding in a constructive manner.

However, during the late 1970's and this new decade, we have begun to build on our past experiences with the act making substantial progress not only at the Federal level, but especially at the State and local level. We intend that the Juvenile Justice Office be an advocate for the families and youth of our States, while at the same time protecting their human, constitutional and legal rights.

During our 2 days of hearings held March 26 and 27, 1980, over 45 witnesses provided testimony on three bills pending before the Judiciary Committee to reauthorize the act. Judge Carl Guernsey, president of the National Council of Juvenile and Family Court Judges testified that the act had a positive impact on lowering the increase of juvenile crime from an increase of 15 percent prior to 1974 to an increase of less than 1 percent from 1974 to the present.

In 1974 the act established a runaway youth program which was expanded in 1977 to include homeless, neglected and abused youth. This program provides temporary shelter and counseling for thousands of young runaways and other homeless youth and attempts to reunite these children with their parents. The Runaway Youth Act is retained and administered by HEW's Administration for Children, Youth and Families, Runaway and Homeless Youth Division. The Runaway Act is renamed the Runaway and Homeless Youth Act to reflect the act's homeless, neglected and abused youth program authority. S. 2441, as amended, also classifies the Secretary's authority to continue to fund national telephone networks to link runaway, homeless, neglected and abused youth with their families and service providers.

Mr. President, the 1974 act has dramatically improved the Nation's programs for the prevention and treatment of juvenile delinquency, but we must continue these efforts if we are to benefit fully from the act's mandates. After careful study of the implementation of the 1974 act and 1977 amendments, the Committee on the Judiciary has made several changes to improve the effectiveness of the act.

The major changes recommended in S. 2441, as amended are:

OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

The Committee has carefully reviewed the role of the Office of Juvenile Justice and Delinquency Prevention and its executive head, the Associate Administrator. Congress fully intended in 1974 and 1977 that the Administration administer the Juvenile Justice and Delinquency Prevention Act program through the new Office. Section 820 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended in 1979, retains this intent by specifying that all programs concerned with juvenile delinquency and administered by the Administration shall be administered or subject to the policy direction of the Office of Juvenile Justice and Delinquency Prevention to carry out the mandates of the Juvenile Justice and Delinquency Prevention Act of 1974.

The oversight hearings held by the Subcommittee to Investigate Juvenile Delinquency on the implementation of the 1974 and 1977 Acts from 1975 through 1977 and the oversight hearings held in 1980 by the Committee on the Judiciary established that the Administrator failed to delegate sufficient authority for the Associate Administrator to fully implement this program. While the Office did a relatively effective job of getting the new program off the ground under difficult circumstances, and to keep it operating as efficiently as possible, it is the Committee's view that mandated statutory support of the Office's Administration of the Program will greatly enhance the future ability of the Office to implement the program as intended by Congress.

Therefore, the Committee Amendment specifically delegates authority regarding all administrative, managerial, operational and policy responsibilities for the Juvenile Justice and Delinquency Prevention Act to the Administrator of the Office of Juvenile Justice and Delinquency Prevention. In order to insure effective implementation of this provision the legal advisor unit is reestablished in the Office.

Unobligated funds

A key provision in S. 2441, as introduced, required that appropriated funds under the Juvenile Justice Act, not obligated by the end of each fiscal year shall be transferred to programs funded under title III—the Runaway and Homeless Youth Act. Historically the juvenile justice program had a rocky beginning which resulted in its failure to properly obligate its funds, even though the necessary program applications were available to the Office of Juvenile Justice and Delinquency Prevention. Fortunately, in 1978 the three-year backlog of funds was obligated and off the Washington desk at the Office of Juvenile Justice. However, within the past year the obligation rate has diminished substantially, with the prospect of a significant carryover. The Runaway Youth Act had not experienced any such problem. However, the Committee Amendment mandates that any unobligated Juvenile Justice funds shall be used to implement section 223(a)(13). Such funds will be allocated to the States participating in the Act on the basis of relative population of people under the age of eighteen.

The Committee is concerned that this important provision of the 1974 Act, which was intended to prohibit the placement of juveniles in any adult facility, including jails, has not been properly implemented. In fact, during the March hearings the Department of Justice revealed that six years after this section became law only ten States even report compliance with this laudatory provision. Of similar concern is that such disappointing progress relates to a standard of "sight and sound" developed by the Department of Justice, rather than the fuller prohibition intended by the 1974 Act. In that regard it was never intended that the words "regular contact" in Section 223(a)(13) allow less than full compliance, as does the "sight and sound" standard. The prohibition on "regular contact" was designed to allow commingling of juveniles and adults under specialized circumstances such as a short-term employment program in order to avoid costly duplication.

It is obvious to the Committee that much remains to be done to make the 1974 Act programs a reality. The allocation of unobligated funds for this worthy, but somewhat neglected objective is particularly appropriate.

Maintenance of effort

The Committee amendment retains the current provision of law that requires at least 19.15 percent of the total appropriation under Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, be spent for juvenile delinquency programs, with emphasis on programs aimed at curbing violent crimes committed by juveniles. The Committee acknowledges that violent juvenile offenders should be given an increased focus, but given the comparable competing interests it was felt that requiring all of the maintenance of effort funds for this particular focus would be excession. In addition, the Committee amendment waives the maintenance of effort provision when the total appropriations under Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, does not exceed $150,000,000 during any fiscal year.

Citizen participation

The Committee Amendment improves the Acts's citizen participation provisions. Under the Committee Amendment, the citizen groups, namely the State Advisory Groups, will work more closely with the State agency perspective applicants and others interested in the Juvenile Justice program.

Reports and studies

The Committee amendment requires the Administrator of the Office of Juvenile Justice and Delinquency Prevention to provide a detailed evaluation of the scared-straight type programs for juveniles to the Congress by June 30, 1981. In addition, a study of juvenile justice and delinquency prevention policies, programs and practices affecting Native Americans is to be completed and submitted to Congress by December 31, 1981.

Title III—Runaway Youth Act Amendments

This program's title is amended by the Committee Amendment to reflect the 1977 Act's homeless youth focus. Thus, entitled the Runaway and Homeless Youth Act. The Committee amendment makes statutory the authority for the Secretary of Health, Education, and Welfare to continue to fund national telephone networks to link runaway, homeless, neglected and abused youth with their families and service providers. It further, expands the client population eligible for service and stimulate the strengthening of governmental and private sector programs for youth and families in need of service. The Secretary will continue through the Administration for Children, Youth and Families to collect any information necessary to report on and assess the need for programs and services funded under this title.

The Committee bill authorized funding for title III at the same level as the 1977 Act of $25 million per year for each of five fiscal years, 1981 through 1985.

Juvenile Justice Act Authorization

If one merely looks at the extent and cost of juvenile crime and at all the needs that are not met by current programs, one could easily conclude that the authorization levels for this Act should be doubled or tripled. It is the responsibility of this Committee, however, to insure that juvenile justice programs are developed in an orderly fashion and that all moneys are spent effectively, timely and wisely. Therefore the Committee has suggested authorization levels that provide for the orderly growth of these programs over the next five years. As reported by the Committee, S. 2441, would authorize for each of fiscal years 1981 through 1985 levels of $150 million, $150 million, $175 million, $200 million and $200 million respectively.

The Committee further contemplates that the Subcommittee on the Constitution will pursue its oversight responsibilities in a vigorous manner so as to assure that the Office of Juvenile Justice and Delinquency Prevention expends the newly authorized funds in a fiscally sound manner consistent with the primary goals of the 1974 Act in order to assure complete implementation of the Juvenile Justice and Delinquency Prevention Act.

Mr. President, I strongly urge my colleagues in the Senate to adopt this legislation. The Juvenile Justice and Delinquency Prevention Act and these 1980 amendments will provide the stability so vital to the continuation of this congressional initiative. The 5-year extension, with the adequate funding provided, when coupled with full implementation of the provisions of the 1974 and 1977 acts will help address the current needs of our juvenile justice system. Although the amounts authorized to date have been very frugal relative to the task of each of the participating States, such resources provided in a stable, continuous fashion will do wonders to achieve the mandate of the 1974 act.

Mr. President, the Federal Government has an important responsibility to provide the leadership and coordination to assist and encourage the development of sensible, humane, and more economical responses to juvenile delinquency. There are no panaceas. A reauthorization of the 1974 Juvenile Justice and Delinquency Prevention Act will be an important step. There must be a commitment by all our citizens to begin to resolve the legal and social problems and attitudes relevant to children in trouble. Alternatives to unsound policies must be developed and encouraged. Many States, localities and private nonprofit interest groups are already beginning to redirect and increase their efforts. The Juvenile Justice Act has contributed to this progress.

I ask unanimous consent that two attachments be printed at this point in the RECORD, one a letter from the American Legion, dated March 27, 1980, and the second being a list of organizations endorsing the Juvenile Justice and Delinquency Act of 1974.

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

THE AMERICAN LEGION,
Washington, D.C., March 27, 1980.

HON. BIRCH BAYH,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR BAYH: The American Legion's longstanding concern over juvenile crime across the country was the basis for our support in 1974 of the Juvenile Justice and Delinquency Prevention Act. We believed then as we do now that the problem demands a comprehensive and coordinated approach at the federal level.

As you know, juvenile crime continues to be one of our most persistent social ailments. It, therefore, is essential that federal efforts be continued and that the Act be extended through reauthorization. We are pleased to learn that you have introduced S. 2441 which, if enacted, would provide for such reauthorization and we continue to support the maintenance of effort concept as part of any reauthorizing mandate.

The American Legion stands ready to assist you and every member of the Committee in this worthwhile endeavor.

Sincerely,

MYLIO S. KRAJA,
Director.

ORGANIZATIONS ENDORSING THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974 (PUBLIC LAW 93-415, AS AMENDED IN 1977, PUBLIC LAW 95-115)

American Federation of State, County, and Municipal Employees.
American Institute of Family Relations.
American Legion, National Executive Committee.
American Parents Committee.
American Psychological Association.
B'nai B'rith Women.
Children's Defense Fund.
Child Study Association of America.
Chinese Development Council.
Christian Prison Ministries.
AFL-CIO Department of Community Services.
AFL-CIO, Department of Social Security.
American Association of Psychiatric Services for Children.
American Association of University Women.

American Camping Association.
American Federation of Teachers.
American Occupational Therapy Association.
American Optometric Association.
American Parents Committee.
American Psychological Association.
American Public Welfare Association.
American School Counselor Association.
American Society for Adolescence Psychiatry.
Association for Childhood Education International.
Association of Junior Leagues.
Emergency Task Force on Juvenile Delinquency Prevention.
John Howard Association.
Juvenile Protective Association.
National Alliance on Shaping Safer Cities.
National Association of Counties.
National Association of Social Workers.
National Association of State Juvenile Delinquency Program Administrators.
National Collaboration for Youth: Boys' Clubs of America, Boy Scouts of America, Camp Fire Girls, Inc., Future Homemakers of America, Girls' Clubs, Girl Scouts of U.S.A., National Federation of Settlements and Neighborhood Centers, Red Cross Youth Service Programs, 4–H Clubs, Federal Executive Service, National Jewish Welfare Board, National Board of YWCAs, and National Council of YMCAs.
National Commission on the Observance of International Women's Year Committee on Child Development, Audrey Rowe Coloms, Chairperson Committee Jill Ruckelshaus, Presiding Officer of Commission.
National Conference of Criminal Justice Planning Administrators.
National Conference of State Legislatures.
National Council on Crime and Delinquency.
Boys' Clubs of America.
Boy Scouts of the USA.
Child Welfare League of America.
Family Impact Seminar.
Family Service Association of America.
Four-C of Bergen County.
Girls Clubs of America.
Home and School Institute.
Lutheran Council in the U.S.A.
Maryland Committee for Day Care.
Massachusetts Committee for Children and Youth.
Mental Health Film Board.
National Alliance Concerned With School-Age Parents.
National Association of Social Workers.
National Child Day Care Association.
National Conference of Christians and Jews.
National Council for Black Child Development.
National Council of Churches.
National Council of Jewish Women.
National Council of State Committees for Children and Youth.
National Jewish Welfare Board.
National Urban League.
New York State Division for Youth.
Palo Alto Community Child Care.
Philadelphia Community Coordinated Child Care Council.
The Salvation Army.
School Days, Inc.
Society of St. Vincent De Paul.
United Auto Workers.
United Cerebral Palsy Association.
United Church of Christ—Board for Homeland Ministries, Division of Health and Welfare.
United Methodist Church—Board of Global Ministries.
United Neighborhood Houses of New York, Inc.
United Presbyterian Church, USA.
Westchester Children's Association.
National Federation of State Youth Service Bureau Associations.
National Governors Conference.
National Information Center on Volunteers in Courts.
National League of Cities.
National Legal Aid and Defender Association.
National Network of Runaway and Youth Services.
National Urban Coalition.
Public Affairs Committee, National Association for Mental Health, Inc.
Robert F. Kennedy Action Corps.
U.S. Conference of Mayors.
Big Brothers/Big Sisters of America.
National Youth Workers Alliance.
National Council of Juvenile and Family Court Judges.
National Council of Criminal Justice Planners.
Youth Network Council.
American Bar Association.
American Civil Liberties Union.
National Juvenile Law Center.
National Coalition for Children's Justice.
Children's Express.
Children's Defense Fund.
Coalition for Children and Youth.

Mr. THURMOND. Mr. President, today, the Senate considers legislation to reauthorize the Juvenile Justice and Delinquency Prevention Act of 1974.

The original legislation, the Juvenile Justice and Protection Act of 1974, was the first comprehensive Federal response to the problem of juvenile crime. I supported that legislation because I was deeply concerned about the rise in juvenile crime and the number of youths who were running away from their homes.

We have now had 6 years of experience with this legislation. It has been, I think, a rocky road. There are conflicting views throughout the country on how to respond to juvenile crime, how to separate status offenders from nonstatus offenders, and how much of the overall criminal justice resources should be devoted to this problem.

These problems are even more difficult to resolve now that we are in a period of budgetary restraint. Although this bill authorizes a total of $875 million over the next 5 fiscal years, it is clear from recent Budget Committee actions that funds for juvenile justice and criminal justice programs will be hard to come by through the appropriation process.

Mr. President, I hope that supporters of this program will understand these current funding realities. The LEAA program, for example, has been reduced substantially. The maintenance of effort provision of the Omnibus Crime Control and Safe Streets Act, which requires that 20 percent of LEAA funds also go to juvenile justice programs, should be suspended temporarily while LEAA funding levels are so low. Otherwise, juvenile justice will receive a disproportionate share of total criminal justice funding. I believe that, in a period of spending restraint, all components of the criminal justice system should share equally.

The Juvenile Justice and Delinquency Prevention Act of 1974 is scheduled to be funded at a $100 million level. I think that is adequate for the time being. This program has been successful in many States, but efforts to go too far too fast may hurt the program. For example, on the question of separating juveniles from adults in lockups and jails, a requirement that absolute separation be reached within a few years may be impossible to achieve.

Mr. President, although I support the concept of separating juveniles from adult offenders in jails and lockup facilities, the current separation on the basis of "sight and sound" seems to be an achievable goal. My own State of South Carolina has been able to achieve compliance with this requirement. Unfortunately, for a rural State like mine, a Federal requirement that there be complete separation—in separate facilities—of juvenile and adult offenders may be impossible to achieve in the immediate future. States are taking steps to correct this situation, but they should be encouraged to do so, not forced to do so under the threat of sanctions by the Federal Government.

Mr. President, I support this legislation and its objectives and urge my colleagues to approve it.

Mr. DOLE. Mr. President, I rise in support of this legislation that would amend the Juvenile Justice and Delinquency Prevention Act of 1974. This bill is similar to S. 2434, legislation that the Senator from Kansas introduced to extend the Juvenile Justice and Delinquency Prevention Act of 1974 through fiscal year 1984. That bill authorized $125 million in fiscal year 1981 and $125 million in each succeeding year for the programs that are created by the act. In addition, S. 2434 required that there would be maintained from appropriations for each fiscal year allotted to each State under title I of the Omnibus Crime Control and Safe Streets Act of 1968, at least, the average percentage of the 3 most recent fiscal years for which figures are available of the total expenditures made for criminal justice programs by State and local governments which is expended for juvenile delinquency programs by such State and local governments.

MAINTENANCE OF EFFORT

An important aspect of the 1974 Juvenile Justice Act was the "maintenance of effort" provision. That law called for a set aside of 19.15 percent of all law enforcement assistance administration (LEAA) funding to be reserved for juvenile justice programs. This percentage was based on the ratio of LEAA expenditures for juvenile justice to the agency's total expenditures for fiscal 1971. The Senator from Kansas felt that it was time to carefully reexamine this ratio in the light of experience in its administration.

The Senate version of the Justice System Improvement Act of 1979 provided for the complete elimination of the maintenance of effort provision. S. 2434 did not go that far. Instead it attempted to develop a new formula based on the average percentage of the 3 most recent fiscal years of the total expenditures made for criminal justice programs by State and local governments.

AUTHORITY OF THE ASSISTANT ADMINISTRATOR

Under S. 2434, the Office of Juvenile Justice and Delinquency Prevention would have remained within the LEAA of the U.S. Department of Justice. The Assistant Administrator of LEAA would have continued to head the Office although he would have been under the policy direction and control of the Administrator of LEAA.

COMPROMISE LEGISLATION

S. 2441 represents a good compromise between the concerns of Senator BAYH and the concerns of this Senator. In reviewing the original proposal that this Senator offered and S. 2441, there are only three major differences. Those differences concern the role of the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the funding level, and the maintenance of effort provision.

In S. 2441 the Administrator of the Office of Juvenile Justice and Delinquency Prevention is given final accountability and responsibility for implementing the act. The funding level, in the legislation that we are reviewing today, is $150 million in 1981, $150 million in 1982, $175 million in 1983, and $200 million in 1984 and 1985. Under S. 2441, the 19.15 requirement for spending on juvenile justice programs will be waived when total appropriations for LEAA fail to exceed $150,000,000.

The Federal Government has a responsibility to continue its efforts to improve the quality of justice that is available to juveniles in this country. The problem of juvenile delinquency must continue to be dealt with in an effective and meaningful manner if the levels of juvenile crime are to continue their decline.

It is my hope that by extending the authorization for the Juvenile Justice and Delinquency Prevention Act of 1974, States and local governments, private and public organizations will have the assistance that is necessary to continue the development of practical approaches to the problems of youths that have become involved in the juvenile justice system. Juvenile crime and delinquency prevention must continue to be a top Federal, State, and local priority. It is clear to me that a major cause of this Nation's staggering crime rate is juvenile crime and violence. This legislation will deal with that cause.

The PRESIDING OFFICER. Who yields time?

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 2441

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

SHORT TITLE

SECTION 1. This Act shall be cited as the "Juvenile Justice and Delinquency Prevention Act Amendments of 1980".

TITLE I—AMENDMENTS TO TITLE I OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

SEC. 101. Section 101(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended—

(1) by striking out "and" immediately after the semicolon in paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(8) the justice system should give additional attention to violent crimes committed by juveniles, particularly to the areas of identification, apprehension, speedy adjudication, sentencing, and rehabilitation.".

SEC. 102. (a) Paragraph 5 of section 103 of that Act is amended to read as follows:

"(5) the term 'Administrator' means the agency head designated by section 201(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended;".

(b) Section 103(7) of that Act is amended by inserting after "Pacific Islands" the following: "The Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands,".

(c) Section 103(9) of that Act is amended by striking out "law enforcement" and inserting "juvenile justice".

(d) Section 103(1) of that Act is amended by inserting "special educational," immediately before "vocational".

(e) Section 103(12) of that Act is amended by striking out "and" immediately after the semicolon.

(f) Section 103(13) of that Act is amended—

(1) by inserting "special educational," immediately before "social"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and".

(g) Section 103 of that Act is amended by adding at the end thereof the following:

"(14) The term 'handicapping conditions' means the conditions described in the definition of the term 'handicapped children' in section 602(1) of the Education of the Handicapped Act (20 U.S.C. 1401).".

TITLE II—AMENDMENTS TO TITLE II OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

SEC. 201. (a) Section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended to read as follows:

"SEC. 201. (a) There is hereby established within the Department of Justice under the general authority of the Administrator of the Law Enforcement Assistance Administration, the Office of Juvenile Justice and delinquency Prevention (referred to in this Act as the 'Office'). The Office shall be under the direction of an Administrator, who shall be nominated by the President by and with the advice and consent of the Senate. The Administrator shall administer the provisions of this Act through the Office. The Administrator shall have final authority to award, administer, modify, extend, terminate, monitor, evaluate, reject, or deny all grants, cooperative agreements and contracts from, and applications for, funds made available under this title.

"(b) The Administrator may prescribe, in accordance with section 553 of title 5, United States Code, such rules and regulations as are necessary or appropriate to carry out the purposes of this title.".

(b) Section "201(e)" of that Act is renumbered "201(c)" and amended by striking out "of the Law Enforcement Assistance Administration".

(c) Section "201(f)" of that Act is renumbered "201(d)".

(d) A new subsection "(e)" is added to read as follows:

"(e) There shall be established in the Office a Legal Advisor who shall be appointed by the administrator whose function shall be to supervise and direct the Legal Advisor Unit whose responsibilities shall include legal policy development, implementation, and dissemination and the coordination of such matters with all relevant departmental units. The Legal Advisor, when appropriate, shall consult with the Law Enforcement Assistance Administration and the Office of Justice Assistance, Research, and Statistics on legal nonpolicy matters relating to the provisions of this Act.".

(e) Section "201(g)" of that Act is renumbered "201(f)" and amended by striking out "-five" and inserting "-six".

(f) New subsections "(g)" and "(h)" are added to read as follows:

"(g) The Administrator shall provide the United States Senate Committee on the Judiciary and the United States House of Representatives Committee on Education and Labor with a detailed evaluation of the Rahway Juvenile Awareness Project, the so-called 'Scared-Straight' program or other similar programs, no later than June 30, 1981.

"(h) The administrator, in cooperation with the Director of the Bureau of Indian Affairs, shall conduct a study of juvenile justice and delinquency prevention policies, programs, and practices affecting native Americans and shall report on the results of that study to the United States Senate Committee on the Judiciary and the United States House of Representatives Committee on Education and Labor no later than December 31, 1981. Such report shall contain recommendations regarding actions which should be taken, including suggested legislation, and shall address, at a minimum, the nature and quality of juvenile programs on Indian reservations, the impact of Federal Government activities on such programs, the consistency of ongoing efforts with the objectives of the Juvenile Justice and Delinquency Prevention Act, and the juvenile justice relationships between Indian tribes and contiguous units of local government.".

SEC. 202. (a) Section 204(b) of that Act is amended by striking out ", with the assistance of Associate Administrator,".

(b) Section 204(g) of that Act is amended by striking out "Administration" and inserting "Office".

SEC. 203. Section 207(c) of that Act is amended by inserting "and other handicapping conditions" immediately after "learning disabilities".

SEC. 204. Section 208(d) of that Act is amended by striking out "Corrections" and inserting "Justice".

SEC. 205. (a) Section 222(a) of that Act is amended by striking the last "and" and inserting immediately after "Pacific Islands" the following: ", the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States,".

(b) Section 222(b) of that Act is amended by striking out "the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands" and inserting "as defined in section 103(7),".

SEC. 206. (a) Section 223(a) of that Act is amended to read as follows:

"(a) In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes in accordance with regulations established under this title, such plan must—".

(b) Section 223(a)(3)(iii) of that Act is amended by striking out "established pursuant to section 203(c) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended".

(c) Section 223(a)(3)(iv) of that Act is amended by striking out "section 520(b) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended," and inserting "section 1002 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended,".

(d) Section 223(a)(3)(B) of that Act is amended by inserting "special education," immediately before "or youth services departments".

(e) Section 223(a)(3)(C) of that Act is amended—

(1) by inserting "special education" immediately before "or social services for children"; and

(2) by inserting "and other handicapping conditions" immediately after "learning disabilities".

(f) Section 223(a)(15) of that Act is amended by striking out "mentally retarded and emotionally or physically".

(g) Section 223(a) of that Act is amended by striking out the last sentence.

(h) Section 223(c) of that Act is amended by striking out ", with the concurrence of the Associate Administrator,".

(i) Section 223(d) of that Act is amended by striking out ", in accordance with sections 509, 510, and 511 of title I of the Omnibus Crime Control and Safe Streets Act of 1968,".

SEC. 207. Section 224(a)(11) of that Act is amended by inserting "and other handicapping conditions" immediately after "learning disabilities".

SEC. 208. The Juvenile Justice and Delinquency Prevention Act of 1974 is amended by substituting "Priority Juvenile" for "Special Emphasis" each time it appears.

SEC. 209. Section 225(b)(5) and (6) of that Act is amended by striking out "planning agency" and inserting "advisory group".

SEC. 210. Section 225(b)(8) of that Act is amended by striking out "agency" the first time is appears and inserting "advisory group".

SEC. 211. (a) Section 228(b) of that Act is amended by striking out "not funded by the Law Enforcement Assistance Administration,".

(b) Section 228(g) of that Act is amended—

(1) by striking out "part" and inserting "title"; and

(2) by striking out "or will become available by virtue of the application of the provisions of section 509 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended".

SEC. 212. (a) Section 241(c) of that Act is amended by striking out "Law Enforcement and Criminal".

(b) Section 241(d) of that Act is amended by inserting "and special educational" immediately after "other educational".

SEC. 213. (a) Section 261(a) of that Act is amended to read as follows:

"(a) To carry out the purposes of this title there as authorized to be appropriated $150,000,000 for each of the fiscal years ending September 30, 1981 and 1982, $175,000,000 for the fiscal year ending September 30, 1983, and $200,000,000 for each of the fiscal years ending September 30, 1984 and 1985. Appropriated funds not obligated by the end of each fiscal year, shall be allocated directly to the States participating in the Act on the basis of relative population of people under age eighteen for the purpose of implementing section 223(a)(13), no later than January 1, of the subsequent fiscal year.".

(b) Section 261(b) of that Act is amended to read as follows:

"(b) In addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, there shall be maintained from appropriations for each fiscal year, at least 19.15 per centum of the total appropriations under title I of the Omnibus Crime Control and Safe Steets Act of 1968, for juvenile delinquency programs, with emphasis on programs aimed to curb violent crimes committed by juveniles, namely, murder, forcible rape, robbery, aggravated assault, and arson involving bodily harm, particularly to the areas of identification, apprehension, speedy adjudication, sentencing and rehabilitation. This subsection shall be waived when the total appropriations for each fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 do not exceed $150,000,000. Implementation, including guidelines, of this subsection shall be the responsibility of the Administrator of the Office.".

SEC. 214. Section 262 of that Act is amended to read as follows:

"SEC. 262. Of the appropriation for the Office under this Act, there shall be allocated an adequate amount for administrative expenses other than those support services performed for the Office by the Office of Justice Assistance, Research, and Statistics.".

SEC. 215. Section 263 (a), (b), and (c) of that Act are amended to read as follows:

"SEC. 263. The amendments made by the Juvenile Justice and Delinquency Prevention Act Amendments of 1980 shall take effect upon enactment.".

TITLE III—AMENDMENTS TO THE RUNAWAY YOUTH ACT

SEC. 301. Amend the caption "TITLE III—RUNAWAY YOUTH" by inserting "AND HOMELESS" immediately after "RUNAWAY".

SEC. 302. Section 301 of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended by inserting "and Homeless" immediately after "Runaway".

SEC. 303. (a) Section 302(1) of that Act is amended by adding "or who are otherwise homeless" after "permission".

(b) Section 302(2) of that Act is amended by adding "and homeless" after "runaway".

SEC. 304. (a) Section 311 of that Act is amended by inserting "(a)" immediately after "SEC. 311.".

(b) Section 311 of that Act is amended by adding at the end thereof the following:

"(b) The Secretary is authorized to make grants for the purposes of providing a national telephone communications system to link runaway and homeless youths with their families and with service providers.

"(c)(1) In addition, the Secretary is authorized to make grants and to enter into contracts with governmental and nonprofit private agencies for the purposes of providing counseling and other services to meet the immediate needs of runaway or otherwise homeless youth, youth in trouble or in crisis, and the families of such youth, in a manner which is outside the law enforcement structure and juvenile justice system.

"(2) The Secretary may provide technical assistance and training to such agencies who receive grants or enter into contracts under this subsection.

"(3) The size of the grant or contract shall be determined by the number of such youth and families in the community and the existing availability of such services.".

SEC. 305. (a) Section 312(a) of that Act is amended by striking the period and inserting "or who are otherwise homeless.".

(b) Section 312(b)(5) of that Act is amended by inserting "and homeless" after "runaway" the first time it appears.

SEC. 306. (a) Section 315(1) of that Act is amended by adding "and homeless" after "runaway".

(b) Section 315 of that Act is amended—

(1) by inserting "(a)" immediately after "SEC. 315."; and

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

"(b) The Secretary is authorized to design the information instruments required to collect any information necessary to comply with the reporting requirements of this section, and to assess the need for, and to determine the effectiveness of, programs and services funded under this part.".

SEC. 307. Section 341(a) of that Act is amended to read as follows:

"(a) To carry out the purposes of part A of this title there is authorized to be appropriated $25.000.000 for each of the fiscal years ending September 30, 1981, 1982, 1983, 1984, and 1985.".

TITLE IV—MISCELLANEOUS CONFORMING AMENDMENTS

SEC. 401. Section 5316 of title 5, United States Code, is amended by striking out "Associate Administrator, Office of Juvenile Justice and Delinquency Prevention" and inserting "Administrator, Office of Juvenile Justice and Delinquency Prevention".

SEC. 402. Section 4351(b) of title 18, United States Code is amended by striking out "Associate".

SEC. 403. Section 1002 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"SEC. 1002. In addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, there shall be maintained from appropriations for each fiscal year, at least 19.15 per centum of the total appropriations under this title, for juvenile delinquency programs, with emphasis on programs aimed to curb violent crimes committed by juveniles, namely, murder, forcible rape, robbery, aggravated assault, and arson involving bodily harm, particularly to the areas of identification, apprehension, speedy adjudication, sentencing and rehabilitation. This section shall be waived when the total appropriations for each fiscal year under this title do not exceed $150,000,000. Implementation, including guidelines, of this section shall be the responsibility of the Administrator of the Office.".

SEC. 404. The Juvenile Justice and Delinquency Prevention Act of 1974 is amended by striking out "Associate" each time it appears.

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

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

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

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

The motion to lay on the table was agreed to.

COMMISSION ON CIVIL RIGHTS AUTHORIZATION, 1980

The PRESIDING OFFICER. The Senate will now resume consideration of the pending bill, which the clerk will state.

The legislative clerk read as follows.

A bill (S. 2511) to amend the Civil Rights Act of 1957 to authorize appropriations for the United States Commission on Civil Rights for fiscal year 1981.

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. What is the will of the Senate?

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

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

Mr. HELMS. Mr. President, is the bill open to amendment at this point?

The PRESIDING OFFICER. There is currently pending a committee amendment. It would take unanimous consent unless it is an amendment to the committee amendment.

Mr. HELMS. I see.

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

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

UP AMENDMENT NO. 1104

(Subsequently numbered amendment No. 1775)

Mr. HELMS. Mr. President, I send to the desk an unprinted amendment to the committee amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1104:

In line 2, page 2, strike "$11,719,000" and insert in lieu thereof "$6,000,000".

Mr. BAYH. Mr. President, a point of order, is this appropriate to have this amendment now, or wait until the committee amendment is adopted and then have it?

The PRESIDING OFFICER. The amendment offered by the Senator from North Carolina is an amendment to the committee amendment, and thus is in order.

Mr. HELMS. Mr. President, I shall not be long in discussing the pending amendment. The amendment speaks for itself.

Here we have one of the bureaucratic agencies which, if it ever had any useful purpose, has long since discharged it. Whether it has discharged it wisely or not is a matter of opinion.

But, in any case, I think all Americans will agree that it is time to cut down on the cost of all bureaucracy. That is precisely what this amendment proposes to do.

I call the attention of the Senate to the extravagant nature of the Civil Rights Commission.

Mr. President, the average executive salary for the Civil Rights Commission under this legislation is going to be $50,112 a year, beginning next fiscal year. The average salary below the executive level will be $25,092.

I reviewed the spending by this agency. The travel costs for this agency last year totaled $648,000, according to the information that I received; $604,000 for telephones, rent, utilities, that sort of thing.

If Senators are really serious about balancing the Federal budget, cutting down the cost of operating the Federal Government, then this simple little amendment, certainly, will be their dish of tea.

Therefore, Mr. President, I want Senators to go on record. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HELMS. I ask my distinguished colleagues to raise their hands over in the corner.

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

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I would like the Senate to know exactly what we are in the process of doing here. The bill which is presently before us, to continue the function of the Civil Rights Commission, has cut the authorization request of $14 million in 1980 to $11.7 million in 1981.

So we have already made a significant cut. If we take that percentage cut and apply it to any other agency of Government, I defy anyone to find another one that has done it.

Add to that the fact that we have the kind of inflationary pressures that confront all of our agencies. These costs have to be eaten by the Civil Rights Commission. So, as far as its effective output and its ability to do the job to wipe out discrimination, we have to decrease the amount further by the cost of inflation, take out another 10 percent, or another $1 million or so.

I point out to the Senate that the Senator from North Carolina is one of those Senators who has added to the burden of the Commission. He added, and we accepted, a proposal last year, when we were going through the same authorization process, that the Civil Rights Commission look into the question of discrimination against ethnic groups.

The Senator from Indiana accepted that and the Commission is already involved in trying to complete that study. But they cannot complete that study out of tissue paper. That added to the burden that was already carried. Earlier, we added to the burden by suggesting that they should look at discrimination against older folks. They are now conducting that, in addition to their original mandate. We also added the burden of suggesting that they should look at discrimination against the disabled people of this country.

I think the Senator from North Carolina really wants to kill the whole Commission.

Mr. HELMS. Right.

Mr. BAYH. Then, why does he not just move that we have no appropriation? You might as well cut the whole darned thing out and kill the man as to cut him in half.

Mr. HELMS. I agree.

Mr. BAYH. Then I think the record should show that the purpose of this amendment really is to kill the Civil Rights Commission.

That has not been a popular commission in some places. It has not been popular for a commission to go in and say it is wrong to keep people from voting because they speak with a Spanish dialect or they have a Spanish surname. It is not proper to keep people from voting because they happen to be black. It is not proper to keep minorities out of job opportunities. That has not been popular in some areas.

I think it has been pretty well generally accepted that the job the Civil Rights Commission has done has had a practical effect on assuring equality of opportunity in our country as much as the Bill of Rights itself. It has been a tremendous spur toward full realization of the rights of our citizens.

The controversy involved is whether minority groups, as described, on racial grounds, should be studied and be given equal opportunity. That has been a source of real controversy where minority citizens have used the product of a Civil Rights Commission to show that they were being discriminated against. Basically, this Commission is responsible for putting together the data that showed that hundreds of thousands—indeed, over a million—of voters in just five States were not permitted access to the voting booths. We passed the Voting Rights Act, and that has stopped; and we now have a million voters who have the right to vote. I thought that had been pretty well accepted.

However, the Senator from North Carolina, as is his right, wants to kill the Commission. I point out to my constituents and to his that when you are killing the Civil Rights Commission, you are also killing an effort to try to keep people from discriminating against older folks.

I have listened to the tale of discrimination where older folks are not permitted to get housing in a housing complex. I have seen them discriminated against where, above a certain age, they cannot get a job.

Is this a time the Senator wants the older folks of this country to be denied the protection of the Civil Rights Commission?

I have listened to the tale of people who are not able to walk as some of us are, people who are physically impaired, being discriminated against, denied job opportunities they are capable of fulfilling, denied the opportunity of housing, just because they do not look like the rest of us.

I think it would be very wrong for us to send a message throughout the country that the U.S. Senate is not willing to continue an operation that is the major source of protection for those groups of citizens who are being discriminated against in this regard.

As I say, I respect the Senator's right to offer that amendment. It may be offered as a cost-cutting amendment. But it is like telling a fellow whose hair you are trying to trim that you are going to cut off his head.

The purpose really is to kill the Civil Rights Commission. Unfortunately, if the Senator from North Carolina is successful, that will be the effect. I hope my colleagues, now that we are in the year 1980, will not have the U.S. Senate go on record as being against the progress that has been made to assure first-class citizenship for all our citizens.

Mr. HELMS. Mr. President, the Chair will forgive me while I wipe my eyes, after having heard the impassioned comments of the Senator from Indiana.

Let me tell the Senate what the Civil Rights Commission is all about, and let me offer one illustration, just one.

The University of North Carolina has established a record, through the years, as one of the most liberal institutions in this country. I do not think anybody would question that. It has leaned over backward in terms of civil rights of all kinds. It was in the forefront of integration at a time when it was highly unpopular in my State.

Yet, what we have today, all across this so-called civil rights spectrum, is harassment of this great university. Confrontations are constantly in progress, misrepresenting the character and good faith actions of the University of North Carolina, its board of governors, its president, Bill Friday. Bill and I went to college together. Bill Friday will forever have my undying admiration for standing up to the Feds.

The simple truth is that the Civil Rights Commission is involved up to its ears in political matters. It is lobbying. It is publishing propaganda for causes which I realize the Senator from Indiana supports. Of course, he likes it the way it is. I do not like it the way it is, because I reject the notion that Federal money should be used for lobbying purposes. I will have an amendment on that subject later on in this debate.

It is in this context that I view tears being shed about what a great job the Civil Rights Commission is doing. The simple truth is that the Commission's record is not good. It is spending the taxpayers' money at an inordinate rate, paying salaries that I imagine are double——

Mr. BAYH. Mr. President, will the Senator yield?

Mr. HELMS. Not now, if the Senator will forbear. I did not interrupt the Senator.

Mr. BAYH. I will be perfectly glad to yield for a question, if the Senator wants to ask me.

Mr. HELMS. Mr. President, the distinguished Senator does not have the floor, so it is not a matter of his yielding. I have the floor.

The PRESIDING OFFICER (Mr. INOUYE). The Senator does not yield.

Mr. HELMS. The Senator chose to cast certain aspersions my way, and that is fine. But I want to set the record straight, that we are not talking about a noble agency. It is a political agency, and there is abundant evidence to that effect.

If the Civil Rights Commission cannot operate on $5 million, then they perhaps need some other people to operate it. I am willing to give them enough money to do the things they are supposed to do, but I want to cut off the money now being spent for things they are not supposed to do. That is it, in a nutshell.

Regardless of what the Senator from Indiana says or anybody else says, this is a waste of the taxpayers' money. Any Senator who votes even for the amount of $11.719 million had better not be deluded into thinking this is a cut. It is not a cut. This is the same amount they spent the previous year.

I yield the floor.

Mr. BAYH. Mr. President, will the Senator permit me to address a question to him, or does he not want questions?

Mr. HELMS. I will be glad to answer any question to which I know the answer.

Mr. BAYH. We are dealing here with an authorization bill. What was the authorization that Congress adopted last year?

Mr. HELMS. As I understand it, it spent $11.719 million.

Mr. BAYH. The Senator is wrong. It was $14 million.

Mr. HELMS. How much did they spend?

Mr. BAYH. The appropriated amount was $11.7 million. We are not dealing with an appropriation bill. We are dealing with an authorization bill. So we have cut $2.3 million out of the authorization.

Mr. HELMS. The Senator is splitting hairs. I want to cut back the activities, to limit them to its legitimate functions.

Mr. BAYH. The Senator has been very honest with us. He wants to kill it.

Mr. HELMS. I want eventually to eliminate it, but I do not propose to do it in one whack. I want to cut out its political activities.

Mr. BAYH. The Senator wants to torture it to death.

Mr. HELMS. Torture? I wish somebody would torture me with $5 million. [Laughter.]

Mr. BAYH. If the Senator were subjected to the kind of treatment some of these people whose rights we are trying to protect were subjected to, I do not think he would take such a cavalier approach to this.

He mentioned that this was a political operation. I assume the Senator knows who the chairman of the Commission is.

Mr. HELMS. It does not matter.

Mr. BAYH. Does the Senator know who the chairman of the Civil Rights Commission is?

Mr. HELMS. I do not know. I do not really care. It is the activity of the Commission staff that concerns me.

Mr. BAYH. I do not want to cast aspersions, but I think that is a relevant question, because he happens to be Arthur Flemming, a Republican, appointed as the first Secretary of HEW by a man named Eisenhower. The last time I checked he was a Republican.

Mr. HELMS. What does that have to do with the price of eggs in China?

Mr. BAYH. I am not too sure what that has to do with the price of eggs in China; perhaps nothing.

Mr. HELMS. If the Senator from Indiana wants someone to debate with him about Mr. Flemming, I am not interested. I do not know whether the Senator is trying to say that President Eisenhower did not make any mistakes. What is the Senator saying?

Mr. BAYH. The Senator from North Carolina suggested that this Commission was playing politics.

Mr. HELMS. It is.

Mr. BAYH. I point out that the head of it is a pretty good card-carrying Republican. Maybe he does not fit the bill of the Senator from North Carolina, but he is not partisan.

Does the Senator know who the latest appointee is to the Commission?

Mr. HELMS. The Senator will please tell me. I am fascinated with his evaluation of various Republicans.

Mr. BAYH. I will be glad to, because her husband ran against me for the U.S. Senate—Bill Ruckelshaus, and he is about as good a Republican as there is around.

Is the Senator accusing Jill Ruckelshaus and Arthur Flemming of playing politics? They are not. I do not want to get involved in acrimony at my friend from North Carolina.

The fact of the matter is it is awfully difficult to describe any activity that this organization is involved in that is political activity as it is normally described.

The Senator from North Carolina suggested that the Civil Rights Commission was involved in that North Carolina suit. I simply wish the RECORD to show that the Civil Rights Commission does not have anything to do with that. It is Justice Department and HEW that have brought that suit.

Mr. HELMS. If the Senator will yield, he is 180 degrees wrong if he says that the staff of the Civil Rights Commission does not have anything to do with it.

Mr. BAYH. The suit was brought by the Justice Department and HEW. I do not see the Civil Rights Commission's name on that suit. I am not aware of all the facts. But the facts are the Civil Rights Commission is not involved in a suit against the North Carolina University system.

Mr. HELMS. Not of record, no. The Senator is right about that. But Commission staff members have been up to their ears involved in the North Carolina suit on the staff level, these $50,000 a year staff members.

Mr. BAYH. The Senator from North Carolina talked about the large size and the weight of the executive salaries. Does the Senator know how many of these executives we are talking about?

Mr. HELMS. I can get the figures. The number does not matter. I just looked at the salary figures in the cloakroom. Does the Senator wish me to get them? I am sure he has them before him.

Mr. BAYH. Since this is such a cause celebre, he is concerned about it, we might like to know whether we are talking about thousands or dozens. We are talking about nine executives.

Mr. HELMS. Too many, if they have time to engage in political harrassment.

Mr. BAYH. One is too many to the Senator from North Carolina.

Mr. HELMS. The Senator from Indiana is reading my mind if he is talking about political harrassment.

Mr. BAYH. I would rather not get involved in that complicated process because the Senator thinks differently on this subject than do I, and he is within his right to do so.

Mr. HELMS. That is correct. I thank the Senator.

Mr. BAYH. Why do we not sort of rest our difference of opinion here and let the Senate decide this? I do not want this to really intensify in kind of personal feelings that I fear might be present because I share no ill-will or personal acrimony toward the Senator from North Carolina. I think he is flat-out wrong on what the Civil Rights Commission is designed to do.

Mr. HELMS. Mr. President, that makes

it a two-way street. I, in turn, think the Senator from Indiana is flat-out wrong. I have great affection for the Senator from Indiana, but I just feel obliged to make my views known concerning the Civil Rights Commission.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. I understand there is a previous order that there shall be no votes prior to 5:30 p.m.; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Which means that any amendment called up must be laid aside if another amendment is to be called up. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Mr. President, with the understanding that the pending amendment will be voted on first, I ask unanimous consent that it be laid aside so that I may call up a second amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BAYH. Mr. President, reserving the right to object, and I shall not object, I wish to say that I intend to try to get the leadership not to bring up this vote this evening. I do not know what the will of the Senate will be on it. But I simply want the Senator from North Carolina to know that is my intention.

Mr. HELMS. I am sorry. I did not hear what the Senator's intentions are.

Mr. BAYH. The Senator from Indiana wishes for this to be voted on tomorrow instead of this evening, and for that reason I am going to try to talk to the leadership or exercise whatever rights I might have to see that we accomplish that goal.

I see no reason why that would inconvenience the Senate. We can put them back to back.

The Senator's request is certainly in order, that the cutting amendment that he has proposed will be the first in order and then he can offer whatever other ones he wishes to offer.

Mr. HELMS. If the Senator will yield, is he saying that there will be no votes on this measure tonight?

Mr. BAYH. If the Senator from Indiana has his way, that will be the case. I am not sure that he will. But that is what I wish to see accomplished.

I thought this matter had all been resolved. Several Senators have been told that there was not going to be objection to this, and rather obviously they had not checked with the Senator from North Carolina. He is doing exactly what he has the right to do.

The PRESIDING OFFICER. Is there objection to the Senator's request?

Mr. HELMS. Mr. President, I do not want the Chair to infer that I am insisting on a vote this evening. I wish to be accommodating to the Senator from Indiana. If I implied I would insist on a vote this evening, I want to make it clear I will not.

Mr. BAYH. The Senator is clear on that.

The PRESIDING OFFICER. The prior order indicates that votes are not to be cast before 5:30 p.m. That would mean tomorrow afternoon.

Mr. HELMS. Wednesday afternoon, or Thursday morning?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. It is a little difficult to know how to operate in the Senate. Yesterday we debated a measure 4 hours and we were trying to accommodate Senators coming and Senators going, and those of us who stayed here scarcely knew when to try to be prepared to vote. But no matter.

Whatever time suits the distinguished manager of the bill suits this Senator.

The PRESIDING OFFICER. Without objection, the Senator's first amendment will be set aside and the second amendment will be taken up.

UP AMENDMENT NO. 1105

(Subsequently numbered amendment No. 1776)

(Purpose: To prevent U.S. Civil Rights Commission from engaging in lobbying activities before either the U.S. Congress or the various State legislatures)

Mr. HELMS. 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 North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1105.

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

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

The amendment is as follows:

On page 2, line 2, strike the word; "and," after the semicolon;

On page 2, line 4, strike the period ".", and insert a semicolon ";";

On page 2, line 5, add the following:

"(3) by striking 'For the purposes of' in the first line of section 106 of the Civil Rights Act of 1957, as amended, and inserting in lieu thereof '(a) For the purposes of'; and

"(4) by adding at the end of section 106 of the Civil Rights Act of 1957, as amended, the following:

"'(b) Notwithstading the provisions of any other section of the Civil Rights Act of 1957, as amended, if, on a finding of the Comptroller General that the United States Civil Rights Commission has engaged in lobbying activities either in favor of, or in opposition to, various bills, resolutions, matters, etc., pending either before the U.S. Congress or any of the various State legislatures during fiscal year 1980, the authorization level for the Commission's activities for fiscal year 1981 shall be automatically reduced by $1,-17,900, which is approximately 10 percent of its fiscal year 1981 authorization.'"

Mr. HELMS. Mr. President, earlier today I was reading the committee report on S. 2511 and I was very much interested in the minority views of the distinguished Senator from Utah (Mr. HATCH). Mr. HATCH, as a member of the committee, obviously understands, as does the Senator from North Carolina, the political nature of the activities of the Civil Rights Commission.

I commend the minority views of Senator HATCH to my colleagues. I ask unanimous consent that the minority views of Senator HATCH be printed at this point in the RECORD.

There being no objection, the minority views of Senator HATCH were ordered to be printed in the RECORD, as follows:

MINORITY VIEWS OF SENATOR ORRIN HATCH OF UTAH

I have come increasingly to feel that the civil rights agenda of this nation is far too important a matter to be left to the definition and determination of the U.S. Civil Rights Commission. The struggle for equal rights for all citizens remains one of the dominant concerns of public policy as this nation enters the 1980's. It remains one of the noblest and most enduring pursuits of our time. It is a cause, however, that has been increasingly trivialized by an agency that is rigid and ideological in its approach to this problem.

Although I have supported increasing levels of authorization for the commission in the past, I can no longer justify my support for an agency whose conception of "civil rights" is so at variance with my own and, I believe, with the majority of the American people. The mass of reports and studies published annually by the commission demonstrate a total lack of sensitivity by the commission to the concerns of persons who do not share their monomaniacal views on "civil rights". The Catholic League For Religious and Civil Rights has observed, for example, that:

"* * * the lack of independent scholarship, reasoned discussion, and total disregard for opposing views is apparent throughout the committee's discussion of the abortion issue."

The Committee on Academic Nondiscrimination, an organization of university academics, has observed in testimony before the committee:

"The proceedings of the hearings of the commission reveal recurrent meetings of friends-in-cause who gather to survey the progress of past designs and chart new drives . . . they look to canvass new areas in which to extend governmental regulations, and to search for new justifications for their past rigid attitudes. The cast of invitees and the conduct of the proceedings betray more a desire to buttress preconceived ideas than a search for truth in an honest and impartial fashion . . . the commission acts on behalf of extremely partisan and doctrinaire views."

Illustrating, in my opinion, either the stridency, the irrelevancy, the misguidedness, or the casual attention accorded to its charter and to the Constitution, by the commission is the following activity:

(1) *Affirmative action.*—The commission has been an unremitting supporter of "affirmative action" and racially based quotas. There is no policy that has done more to undermine traditional American values than that of "affirmative action". It is a policy that is violative of the most fundamental conceptions of "equal protection", and a policy that, rather than contributing toward harmony of the races, has done much to create new antagonisms. It is a policy that is totally inconsistent with the traditional goal of the civil rights movement—individual treatment, regardless of race, creed, religion, or color. The commission has contributed toward the institutionalization in American society of this extremely unfortunate policy, despite its somewhat perfunctory acknowledgement that affirmative action in education and employment "may affect the expectations of non-minorities."

The commission itself employs fully 50% of its staff from among a single racial minority group. Is this the commission's notion of "affirmative action"?

(2) *Lobbying.*—Despite prohibitions against lobbying, the commission has actively engaged in communications with Congress

and the state legislatures aimed at promoting or defeating legislation. Among some of the more controversial issues in which the commission has taken part are the equal rights amendment, the equal rights amendment extension, the District of Columbia amendment, the Fair Housing Act amendments, school busing limitations, and antiabortion provisions.

(3) *Abortion.*—Despite an absence of authority in their charter, the commission actively engaged itself in the abortion controversy within Congress until 1978 when an explicit limitation was placed upon such involvement. The commission has gone so far as to suggest that proposed "right-to-life" amendments to the Constitution were "unconstitutional". Despite the ban on abortion activity, the commission has continued to distribute its past literature on the subject.

(4) *Equal rights amendment.*—Although substantial and highly controversial issues surround the proposed equal rights amendment that are not at all related to commitment to equality for women, the commission has referred to the ERA as the "sine qua non of legal equality for women". Commission staffers have actively lobbied for the amendment in the state legislatures in addition to conducting numerous "educational" efforts on its behalf.

(5) *District of Columbia amendment.*—Again oblivious to the significant constitutional issues that surround the proposed District of Columbia voting rights amendment, the commission has actively worked in behalf of its ratification by testifying before state legislatures.

(6) *School Busing.*—The commission has consistently defended and issued reports in behalf of forced school busing, both within large cities and between communities within metropolitan areas. This despite the fact that large majorities of both minorities and nonminorities continue to oppose the practice, and despite the fact that increasing numbers of studies are unable to identify benefits, either social or academic, that would overcome the substantial disruption accompanying school busing orders. In many communities, such forced school busing has contributed to increased segregation by driving many families into private schools, or into the suburbs.

(7) *Communications "stereotyping".*—The commission has issued a series of reports on sex and race "stereotyping" on television. The recommendations issued by the commission have been called "chilling" by the press, with the Washington Post commenting upon the agency's insensitivity to the value of the 1st amendment. In the same vein, the commission has embarked upon a campaign to analyze school textbooks for traces of "Role Stereotyping".

(8) *Private Schools.*—The Commission has voiced its enthusiastic support for the efforts of the IRS to dictate admissions policies to private schools. Under the proposed IRS guidelines, private institutions would be subject to a loss of their tax status upon a showing of "insufficient" numbers of minority students.

(9) *Census.*—The commission has indicated that it will conduct a study of the civil rights implications of state and local districting and redistricting efforts following the 1980 census. Will the commission, as is its wont, find discrimination in the fact that minorities or women do not comprise the precise proportion of a state legislature or congressional delegation as they comprise total population? Will the commission encourage efforts to involve the courts in dictating district boundaries to states and localities?

(10) *Sex "discrimination".*—The commission has expended inordinate amounts of effort and resources investigating the discriminatory implications of all-male softball teams, sex biases in actuarial tables, university expenditures for all-male football squads, sterilization programs, and a plethora of other subjects only tangentially related to the deepset and most intractable problems of discrimination in our society.

(11) *Prisons and the urban crisis.*—The commission has conducted a number of studies on the condition of prisons in the United States, including over-crowding, vocational, programs, medical services, staff recruitment, etc. Why the commission should be using its scarce resources on this sort of research is a bit unclear. The same goes with their sweeping analyses of the "urban crisis". What does all of this have to do with the civil rights mandate of the commission? Another pending study on the "civil rights implications of energy policy" is reported to be critical of energy price decontrol policies.

(12) *Religious and ethnic discrimination.*—Until very recently, the commission has almost totally ignored its statutory responsibilities to investigate discrimination on account of religion or ethnic origin. It has focused almost solely on the more fashionable issues of racial and sexual discrimination. The Polish-American Congress, for example, has testified that the commission has totally ignored the "mockery and ridicule" frequently directed at Polish-Americans in various aspects of American life.

The past decade has not been a good one for sacred cows in this country. I believe that it may be about time for this body to give a longer look at where the Civil Rights Commission is heading. The Commission has become increasingly anachronistic and, more important, increasingly irrelevant. Its copious production of reports and surveys and studies generally go unheard in Congress and, I would guess, in most other circles where some semblance of dispassionate and detached analysis is required. The agency has been captured by a coterie of individuals whose views on civil rights and whose views on the American experience is totally at variance with prevailing sentiment in this country. If these individuals wish to pursue their own notions of civil rights, that is their right in a free country. It is not their right, however, to do this with millions of dollars in taxpayer dollars. The goal of equal rights for all Americans is too critical to allow it to be given a bad name by any governmental agency.

Mr. HELMS. Mr. President, in his minority views, Senator HATCH points out that despite prohibitions against lobbying the U.S. Civil Rights Commission has in fact, and I quote the Senator, "engaged in communications with Congress and the State legislatures aimed at promoting or defeating legislation." Some of the controversial issues with which the Commission has been involved in regard to such lobbying activities are those of the equal rights amendment, the equal rights amendment extension, the District of Columbia voting rights amendment, the Fair Housing Act amendments, school busing limitation, and antiabortion provisions.

As I tried to say earlier, it borders on the unconscionable that the Civil Rights Commission, using an undeserved aura of nobility, should be using the taxpayers' dollars in direct contradiction of directives given to it, that is to say, to violate the directives against lobbying either Congress or the State legislatures on such matters because, after all, these matters do have two sides. They are political in nature. The American people are divided on them. And in some of the instances the American people are preponderantly opposed to the position taken by the Civil Rights Commission.

That means blacks, whites, and all the rest. Yet I have had repeated reports of the Commission staff collaborating with the Justice Department and other agencies, and harassing and intimidating the University of North Carolina and the Lord knows how many other institutions.

Yet here we come with this authorization bill saying, "Oh, what a noble, noble outfit this is. Mr. Arthur Flemming is the chairman of it and he was appointed by a Republican President."

Well, I do not care who appointed him. My concern is, how is the Civil Rights Commission being operated?

There is a plethora of evidence that it is operating in contradiction of the instructions given to them.

I believe the only sure way to prevent such activities in the future is to hit the Commission where it hurts, and that is in its funding authorization. That is the purpose of this amendment.

I know the Senator from Indiana is going to cry, "Oh, the Senator from North Carolina wants to kill the Civil Rights Commission," and he is correct. Eventually I do. But I am willing to give it a chance to phase out consistent with its responsibility; that is all this amendment proposes to do.

I assume, Mr. President, that this amendment will be voted upon subsequent to the first amendment that I offered.

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. HELMS. I thank the Chair and I yield the floor.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. BAYH. Mr. President, I think the use of the Senate's time to discuss the well-intentioned but, unfortunately, undocumented charge of political activity by the Commission would be a waste.

The Senator from North Carolina, after first talking about wanting to cut the budget and save money, fight inflation, now has been very forthright with us. He has said he wants to kill the Commission.

It seems to me the U.S. Senate needs to stand up and put the record straight. The U.S. Senate has been one of the real bastions of protection of the rights of American citizens, and I do not believe that under some thinly veiled disguise of efficiency or partisanship, the U.S. Senate is going to retreat from its age-old position of being that one institution in this Government that could be counted on to stand up and see that no one Member or one citizen could have his or her rights not protected in this country.

The PRESIDING OFFICER. What is the will of the Senate?

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

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

TIME-LIMITATION AGREEMENT—S. 2698

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the Senate proceeds to the consideration of Calendar Order No. 755, S. 2698, a bill to provide authorizations for the Small Business Administration, there be a time agreement thereon as follows:

One hour equally divided on the bill, the time to be controlled by Mr. NELSON and Mr. WEICKER: 30 minutes on any amendment, equally divided in accordance with the usual form; 2 hours equally divided on an amendment by Mr. BELLMON dealing with disaster relief loan assistance; 20 minutes equally divided on any amendment in the second degree; 20 minutes on any debatable motion, appeal, or point of order if such is submitted to the Senate; that the agreement be in the usual form; provided further that the measure not to be considered until next week or until after the completion of the conference report whichever is the later.

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

The text of the agreement is as follows:

Ordered, That not before the week beginning May 26, 1980, or before the conference on the Budget Resolution is completed, whichever is later, the Senate shall proceed to the consideration of S. 2698 (Order No. 755), a bill to provide authorizations for the Small Business Administration, and for other purposes, with debate on any amendment in the first degree to be limited to 30 minutes (except an amendment by the Senator from Oklahoma (Mr. BELLMON), relative to disaster relief, on which there shall be 2 hours), to be equally divided and controlled by the mover of such and the manager of the bill, and with debate on any amendment in the second degree, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate to be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Wisconsin (Mr. NELSON) and the Senator from Connecticut (Mr. WEICKER): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

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

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

Mr. ROBERT C. BYRD. Mr. President, for the purpose of clarifying the agreement which was entered into the intent was to provide that the small business bill would not be taken up until action in conference on the first concurrent budget resolution is completed or next week whichever is the later.

The PRESIDING OFFICER. What is the will of the Senate?

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 2511 be set aside for the time being and that on Thursday morning at 10:30 the Senate resume consideration of S. 2511 and, without further debate or amendment, the Senate proceed to dispose of the Helms unprinted amendment No. 1104; that upon the disposition of that amendment, without further debate or amendment, the Senate proceed to the disposition of unprinted amendment No. 1105 to the committee amendment; that upon the disposition of that amendment, the Senate proceed immediately, without further debate or amendment, to the consideration of the committee amendment; that upon the disposition of the committee amendment, without further debate, amendment, motion, or point of order, the bill be advanced to third reading and immediately, without further debate, motion, or point of order, to final passage; and that upon the disposition of the vote on final passage, there be no time on the motion to reconsider.

Mr. BAKER. Mr. President, reserving the right to object—and I am hesitant to reserve even for this purpose, because the majority leader, I would like the RECORD to show, has been extraordinarily cooperative in trying to arrange time for further consideration of this measure to accommodate certain Senators, including this Senator, and I am grateful for that. But, in view of the complex nature of the request just given, I would ask if the majority leader, without having to restate the request, would give us just a moment to check one or two provisions of it.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. If we can do that, I think we can accommodate that request.

Mr. ROBERT C. BYRD. Very well.

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

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further action on S. 2511 be postponed until 10:30 a.m. on Thursday, at which time the Senate will resume its consideration of S. 2511. I ask further, Mr. President, that, at that time, no further debate be in order; that the Senate proceed immediately to the disposition of unprinted amendments 1104 and 1105, in that order, both by Mr. HELMS; that there be no debate in order on either of the two; that no amendments be in order on either of the two; that points of order be waived to the two, if such would otherwise lie; that the motion to table not be waived in respect to either of the two; that, upon the disposition of unprinted amendment 1105, the Senate proceed without further debate or amendment, motion, or point of order, to the consideration of the committee amendment; that upon the disposition of the committee amendment, without further debate, amendment, or motion or point of order, the Senate proceed to third reading and immediately to final passage without further debate and without further motion; and that upon the disposition of the bill S. 2511, there be no time on any motion to reconsider.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object—I do not plan to object—as I understand the provisions of the request just made by the majority leader, the practical effect will be to put off final passage and final consideration of the two amendments by the distinguished Senator from North Carolina until Thursday morning, and to provide that no other amendments will be in order, and that no points of order can be made against the two amendments, and no amendments can be made to the two amendments, and proceed to the consideration of the committee amendments and final passage in the ordinary course of business ad seriatim beginning at 10:30 Thursday morning?

Mr. ROBERT C. BYRD. That is correct.

Mr. BAKER. Mr. President, I am loath to ask this. but I have a request from this side from one Member who asked if we can change the 10:30 until 11 o'clock, and with that change, as far as I know, we have no further complications.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I will once again express my gratitude to the majority leader for accommodating a difficult set of circumstances.

Mr. ROBERT C. BYRD. The minority leader is welcome.

Mr. HELMS. Mr. President, reserving the right to object, I want the majority leader to know it is not I who wanted to delay it further.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. It is understood that motions to table the amendments of the distinguished Senator would be in order.

Mr. BAKER. Now, it is 11 o'clock.

Mr. ROBERT C. BYRD. Yes. I made that request.

Mr. BAKER. I thank the majority leader.

Mr. HELMS. I, likewise, thank the majority leader.

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

The text of the agreement follows:

ORDER NO. 757

Ordered, That on Thursday, May 22, 1980, the Senate resume the consideration of S. 2511 at 11 o'clock a.m. and that without further debate or amendment the Senate proceed to the disposition of unprinted amendment No. 1104, and following its disposition and without further debate or amendment the Senate proceed to dispose of unprinted amendment No. 1105, with no point of order in order with regard to either amendment. Upon disposition of these two unprinted amendments the Senate shall, without further debate, amendment, motion or point of order, proceed to the committee amendment as amended if amended, and following the committee amendment the Senate shall, without further debate, amendment, motion or point of order proceed to third reading of the bill and without further debate or motion to final passage of the bill, with the motion to reconsider to be decided without debate.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond 1 hour, and that Senators may speak therein.

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

COMPETITION AND CONSUMER CHOICE IN HEALTH CARE

Mr. DURENBERGER. Mr. President, competition and consumer choice in health care are gaining more and more momentum every day. As an advocate of this response to our Nation's health care problems and as the main sponsor of S. 1968, the Health Incentives Reform Act, I am most encouraged by the fact that support is coming from diverse quarters.

Persons with different interests and concerns about our current system of health care are coming to the same conclusion. As an article in the Minnesota Daily put it:

One thing is certain, National health insurance cannot possibly accomplish what its proponents seek: lowering of costs, provision of efficient, effective care, and the availability of "free" care for all . . . (competition) on the other hand, would bring us a step closer to high-quality, reasonably-priced health care . . .

Mr. President, I ask unanimous consent that the article on the competitive approach to health care from the May 9 issue of the Minnesota Daily be printed in the RECORD.

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

HEALTH CARE AND THE FREE MARKETPLACE

(By Paul Westman)

For a long time, inflation-ridden health-care costs have been a major concern of citizens, their representatives in Congress and the White House. Two solutions to the problem are offered: infusion of competition and substantial deregulation of the health care industry, or governmental regulation and/or socialization of health care services.

At first glance, one might suppose a majority of Americans favor the former approach. If this is the case, it is not reflected in the attitudes of most elected officials. Both Senator Kennedy's (D-Ma.) and President Carter's proposals for cost containment and national health insurance depend on massive governmental intervention to "solve" the problem of high health care costs. Unfortunately, massive government intervention does not solve problems, it aggravates them.

Economists George and Joan Melloan note that in managing health care services ". . . the contrast between the government's experience . . . compared with . . . private industry, is striking. It points up dramatically a fact that Washington seems to have completely lost sight of. And that is that costs can be better controlled by the private sector than by the public sector. When there is a dollar-and-cents savings available to a company or an individual, it will be taken. But when the saving is to be made from the public purse, the incentive is missing."

What of the competitive approach? Oddly enough, it has few champions. For a country presumably dedicated to the concept of free enterprise, this is puzzling. In fact, it signals how thoroughly modern America has rejected the principle of economic freedom.

Fortunately, Minnesota's Senator Dave Durenberger has taken the first step toward a competitive system by introducing Senate bill 1968, the Health Incentive Reform Act, dealing with employer health plans. It does not represent full competition in health care, but it is a step forward, and a welcome break from the prevailing interventionist philosophy in Washington.

Unfortunately, there appears to be an absence of strong public pressure for competition generally, a fact that may hurt the bill's chances. Why is there an absence of public pressure?

First, public debate on many major issues is incomplete, often emphasizing different methods of implementation rather than fundamentals. One neglected factor, for example, is whether we ought to tackle the problem of rising costs by regulation and government intervention or by deregulation and free competition.

Before Senator Durenberger introduced S. 1968, all of the major proposals to control health care costs—Senator Kennedy's, President Carter's, the Ribicoff-Long Act—relied on socialization or regulation, not competition. The fundamental issue of health care debate—the choice between competition and intervention—has been completely ignored.

Second, specific proposals on methods of implementation are extremely complex. Most people have neither the time nor the inclination to master such proposals; besides—and rightly so—they regard such mastery as the job of elected officials.

Third, fundamental alternatives are rarely, if ever, clearly stated or even debated. The public has been frozen out of the most important part of the decision-making process, and certainly excluded from steps where their judgment is as valid as that of Congress and their advisers.

In the final analysis, the public, understandably confused and a little suspicious, simply ends up demanding that something be done, and expects public officials to make sensible choices as to what that something will be.

The Health Incentives Reform Act has two key provisions:

First, any employer with more than 100 employees now offering a health benefit plan would be required—in order to qualify for tax breaks—to offer at least three plans furnished by different carriers. Employers not offering a health plan remain unaffected.

Second, employers would have to contribute equally to whatever plan the employees chose, with a stated upper limit on the tax-free portion of the contribution. The purpose of this provision is to encourage consumers of medical care under company plans to economize to some degree when seeking medical attention, by making them absorb a larger portion of their own costs.

As Durenberger stated in a speech before the Federation of American Hospitals on February 9th ". . . we will induce competition where little exists now. Innovative plans will be stimulated in the hope of gaining a larger share of the employee group; alternate delivery systems will be given a chance to compete on an equal basis—neither at an advantage nor at a disadvantage. And the carriers themselves will be encouraged to see that providers are delivering efficient care."

Other requirements, more noxious from a free-market standpoint, set minimum benefit standards. Plans must cover a worker's family, continue benefits to family members (for a time) after the employee dies, is divorced, or moves on to other employment and limit employee cost-sharing to $3,500 per family in order to provide catastrophic coverage.

Although compliance with the provisions of S. 1968 is not mandatory, the employees of firms who choose not to comply would be forced to count employer health contributions as taxable income. This is the incentive in the Health Incentives Reform Act. Since the bill pertains to firms of 100 employees or more, it would affect about one-half of the work force.

Employers, of course, will be faced with new cost and administrative burdens if S. 1968 becomes law. Durenberger, however, is confident that these additional costs would be offset by savings in health benefit costs resulting from increased competition. The estimated cost to the federal government would be zero.

It is important to understand what Durenberger's proposal is and what it is not. It is not an attempt to introduce full-scale competition into the health care industry. Such a proposal would have to be much more far-reaching than S. 1968.

If health care were truly competitive, the medical profession (the American Medical Association) would not have the power to effectively limit the supply of physicians, nor would license requirements and other legal obstacles be raised to restrict entry into chiropractic, osteopathy and similar professions. The same is true of legal obstacles before private paramedic and other free market alternatives to traditional health care methods.

Moreover, S. 1968 ignores the government's own contributions to the high cost of health care. Medicare and Medicaid, for example, exert a strong upward pressure on costs by insulating recipients from the pressures of the marketplace, increasing the percentage of health costs borne by the public, and encouraging fraud and waste.

Furthermore, S. 1968 is itself a national health plan of sorts—albeit a well-conceived and sensible one—and the fact that compliance is induced through tax incentives rather than mandatory directives doesn't make it less so.

Thus, passage of Durenberger's bill would not mean "competition in health care" but, rather, "greater competition in health care." That alone, however, makes it worthy of passage. S. 1968 is in every sense an alternative to other proposals before the Senate.

Not surprisingly, health care interest groups either oppose Senator Durenberger's bill or lean toward opposition. These include the Blue Cross and Blue Shield Association, the U.S. Chamber of Commerce, the Health Insurance Association of America, the National Association of Life Underwriters and the American Medical Association.

Perhaps the most determined opposition comes from the AFL–CIO. The labor giant fails to appreciate that its members might have to bear a greater portion of the costs of their own medical care. Instead, the AFL–CIO would prefer the general public assumed this burden.

Like all pressure groups, these organizations know where their bread is buttered—and that is most decidedly not in the competitive marketplace.

Although presidential inflation adviser Alfred Kahn was enthusiastic about Durenberger's bill, President Carter has indicated that he will seek to have the heart of the bill—the limit on employer contributions—removed.

Senator Durenberger and his staff are confident that S. 1968 will win ultimate passage, despite the obstacles. It remains to be seen whether such optimism is warranted.

One thing is certain. National health insurance cannot possibly accomplish what its proponents seek: lowering of costs, provision of efficient, effective care, and the eventual availability of "free" care for all. Passage of Senator Durenberger's bill, on the other hand, would bring us a step closer to high-quality, reasonably-priced health care—and at the same time preserve a small measure of our rapidly diminishing economic freedom.

TAX EXEMPT HOUSING BONDS

Mr. DURENBERGER. Mr. President, on May 14, 1980, the Committee on Finance favorably reported a well-intentioned but potentially disastrous sense of the Senate resolution. This resolution stated that any legislation affecting tax-exempt housing bonds issued by State and local governments would not contain any provisions rendering interest paid on bonds issued prior to December 31, 1980, taxable if that interest would not be taxable under present law. The proceeds from the sale of the bonds would be required to be placed with homebuyers by December 31, 1981.

I cast the lone vote against this resolution because I am convinced that such action will endanger the responsible, long-term use of tax-exempt housing bonds.

I am a strong advocate of tax-exempt housing bonds because I have seen them work well in Minnesota. I also recognize that abuses have occurred.

The sense of the Senate resolution, however, will do nothing to limit the abuses. In fact, it may very well have the opposite effect. This resolution will encourage some bond attorneys and underwriters to make deals that simply should not be made. These bad examples will encourage Congress to enact legislation so restrictive that tax exempt housing bonds will become a thing of the past.

The previous session of the Minnesota Legislature passed a bill known as the Schreiber-Humphrey bill, to control at the State level the use of tax-exempt bonds for housing. This type of responsible action has negated the need for Federal regulations of housing mortgage bonds. In Minnesota it would be considered just plain overkill.

The cities of Minneapolis and St. Paul have made wise use of this method of financing housing to rebuild their cities, retain residents in their communities and attract people back to the central cities.

Small cities around the State of Minnesota have also made good use of this method to increase their housing stock and help young families to purchase their first home.

The Minnesota Housing Finance Agency has a very commendable record of providing housing that otherwise would not have been available without the use of tax exempt housing mortgage bonds. Since 1971 when the agency was formed, they have provided the following units:

Apartment units	14,370
Single family home mortgages	8,700
Home improvement loans	22,000

Total dollars in loans provided by the agency using mortgage revenue bonds are:

[In millions]

Apartment development	$414
Developmentally disabled (group homes)	4.1
Single family home mortgages	265
Home improvement loans	105

Besides providing housing that may not otherwise have been built, the economy, State, and Federal, is enriched with the jobs provided and the materials and equipment consumed. The bonds have been a major factor in keeping one of our key inustries of our Nation functioning.

Mr. President, I want the Minnesota Housing Finance Agency to continue this fine work. Nevertheless, I am afraid that history is about to repeat. If we allow the abuses to continue through 1980 by providing that interest would not be deemed to be taxable on bonds sold prior to December 31, 1980 and placed prior to December 31, 1981, the demands for restrictive legislation will be overwhelming. I am concerned that if the Finance Committee resolution is taken seriously the tax exempt bond provision of the Code will be repealed and responsible programs such as we have in Minnesota will be eliminated.

Mr. President, following my vote on this resolution, I received a letter from Mr. James J. Solem, executive director, Minnesota Housing Finance Agency, and I ask unanimous consent it be printed in the RECORD.

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

MINNESOTA HOUSING FINANCE AGENCY,
St. Paul, Minn., May 16, 1980.

HON. DAVE DURENBERGER,
U.S. Senator, Russell Senate Building, Washington, D.C.

DEAR DAVE: I just learned of the "sense of the Committee" resolution on tax exempt housing bonds passed by Senate Finance. Your vote to oppose that resolution was absolutely correct, you received good advice on your action, and I commend you for it.

I am afraid what will happen now is that the bond attorneys and underwriters who don't care about the long term public policy aspects of this issue, will push ahead on deals that should never be done and that a year from now there will be enough bad examples that the Congress will be forced to take a very restrictive action. It would have been much better if the Senate Finance Committee had passed out a responsible bill and tried to resolve the issue this way, rather than opening up the process to every marginal program in the country.

The frustrations of running a responsible program continue. I hope that eventually the good guys will win on this one. Meanwhile, again, you did absolutely the right thing, you are to be commended for it, and my very strong feeling is that a year from now there will be a majority of members of that Committee who will wish they had voted with you on that vote.

Sincerely,

JAMES J. SOLEM,
Executive Director.

SENATE AMENDMENT 1660, THE NATIONAL WATER RESOURCES POLICY AND DEVELOPMENT DEMONSTRATION ACT OF 1980

Mr. MOYNIHAN. Mr. President, I am most pleased to announce that last week the Environment and Public Works Committee voted to report a proposal, offered by Senator DOMENICI and myself, that will substantially reform our national water policy. The full committee reported our proposal favorably as an amendment to the Small Hydroelectric Power Development Demonstration Act.

The National Water Resources Policy and Development Demonstration Act of 1980, Senate Amendment 1660, has been under consideration by the committee since May 24, 1979. Extensive hearings were held on the subject last summer. On April 17, 1980, the Water Resources Subcommittee adopted the proposal as an amendment to the water projects omnibus bill, S. 703.

As I stated on May 24, 1979, when Senator DOMENICI and I first introduced this concept in the form of S. 1241,

> We are seeking to bring to a chaotic and idiosyncratic system of economic and resource development the concept of national policy—a concept which is, I think, deeply sensitive to the uses of federalism: the capacity of States to know best what they most need, and the capacity of the Federal Government to look to national interests and the sharing of costs.

The Water Resources Policy and Development Demonstration Act would create a streamlined authorization process for water projects as an overlay to the present system. For each of the next 5 years an additional $1 billion would be authorized for water projects to be divided among the States using a formula based on land area and population. States would be required to develop priority lists of water projects to be studied and implemented by the Federal water agencies. The lengthy congressional authorization and appropriations process now in place would be substantially reduced under the demonstration program. I ask unanimous consent that there be printed in the RECORD following this statement a factsheet detailing

the provisions of the demonstration program in its entirety.

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

(See exhibit 1.)

Mr. MOYNIHAN. Our current national water policy—if we are so generous as to call it a "policy"—is in a shambles. Just a few statistics are enough to illustrate the problems we now face. On the average, a flood control project takes approximately 26 years between authorization and the start of construction. Then too, no new starts in water resources construction are recommended in the President's budget; the $2.5 billion recommended is for the continuation of construction of 250 on-going projects. (I might note that much of this funding is for a few very large—and very wasteful—projects). It is instructive to note that over the past 4 years construction spending on Corps of Engineers projects has declined by over 30 percent in real dollars. In short, the pattern of randomly acquired influence on the relevant committees of the U.S. Congress has created a program wholly lacking in credibility.

The demonstration program offered by Senator DOMENICI and myself seeks to reverse the decline, by instilling a measure of rationality into the aging and ad hoc arrangement.

EXHIBIT 1

OUTLINE OF THE DOMENICI/MOYNIHAN 5-YEAR DEMONSTRATION FOR WATER RESOURCES DEVELOPMENT—(AMENDMENT 1660)

This amendment was approved, 4–2, by the Water Resources Subcommittee.

Reasons why the demonstration program is needed:

(1) The current water resources program is in decline. (Corps spending is down 50 percent in real dollars in 15 years).

(2) There is no system of priorities for a $30 billion-plus backlog.

(3) There is no national constituency for water development because many states receive very little from the program.

Senators Domenici and Moynihan propose a 5-year effort to see if another funding-selection approach—to run in tandum with the present line-item program of the corps, Bureau of Reclamation, and Soil Conservation Service—will create a stronger, more effective national water resources development program.

SPECIFICS OF THE AMENDMENT

Demonstration program funding:

(1) $1 billion a year is to be distributed among the States for 5 years, beginning fiscal year 1982. The money is allocated to the construction of federally designed water resources projects, selected by the State on a priority basis.

(2) The money is to be distributed to the States on a formula of half land, half population (with 3 percent for Alaska).

(3) There is no limit on the present, line-item program for authorizing and appropriating for water resources projects. The $1 billion is in addition to the present program.

(4) There is no change from present cost-sharing formulas.

Feasibility Studies:

New water resources surveys are automatically authorized at State request and undertaken according to a State priority list; $150 million is available annually.

Project authorization:

(1) If the project is to be built under the demonstration program, authorization of a new project is automatic after the State and Federal Government agree.

(2) A benefit-to-cost ratio greater than 1-to-1 is not required for projects built under the demonstration program, if the State so decides.

(3) The types of projects covered is expanded to include water supply and renovation, desalination, and dam safety.

(4) Each State is required to hold at least one public hearing annually to develop its priority list for demonstration water projects.

Evaluation of demonstration program:

The Water Resources Council will study the implementation of the demonstration program and evaluate whether it works better than the current project-by-project process. The Council will report its findings to Congress at the end of the fourth year of the demonstration.

THE TRAGEDY AT THE LOVE CANAL

Mr. MOYNIHAN. Mr. President, I would like to draw the attention of my colleagues to a recent series of events affecting the residents of the area near the Love Canal in Niagara Falls, N.Y. This Saturday, May 17, the Environmental Protection Agency released a study which indicated the presence of chromosome damage among the people of the Love Canal area. The test, conducted by the Biogenics Corp. of Houston, Tex., identified chromosome aberrations among 11 of its 36 subjects, a finding which, if corroborated, could have serious consequences for the people of Love Canal. In the wake of this weekend's announcement of the study results there has already been discussion of the possibility that up to 70 or more additional families will have to be relocated.

As a Senator from New York and as a member of the Environment and Public Works Committee, I have long been concerned about the tragedy at the Love Canal, where many of the families already are encountering severe and chronic health problems as a result of the seepage of toxic chemicals into their homes, streets, and school areas. After seeing this latest data, I am even more convinced of the need to identify in an epidemiologically sound study the extent of the damage to the health and well-being of the people of the Love Canal area. And, I am even more convinced of the need to coordinate the actions of government—local, State, and Federal—in addressing these problems.

This morning I hosted a meeting in which Congressman JOHN LAFALCE from Niagara Falls, N.Y., and I had the opportunity to pose to members of administration our many questions on the handling of the situation. Stu Eizenstat, Assistant to the President for Domestic Affairs and Policy attended, along with more than 10 other administration officials from the Environmental Protection Agency, the Department of Health and Human Services, the Federal Emergency Management Agency, the Council on Environmental Quality, and the White House Domestic Policy Staff. Administration officials indicated that a validation of the Biogenics study has commenced, and should be completed by Wednesday.

At that time, the administration will make the determination of whether the situation constitutes a health emergency, and if so, will commence to relocate the residents, in cooperation with the State. Efforts are now underway within the administration to analyze the statutory authorities available to them for this purpose.

It is my concern and that of Congressman LAFALCE that the administration to date has been disorganized and unable to cope with the Love Canal situation. Only this morning was there agreement that an individual administration spokesman on this issue was necessary. Previously conflicting information about possible Federal actions had been presented by different sources and agencies within the administration, and coordination has been entirely lacking, despite the creation of a task force for this purpose early last fall.

It is beyond the time for the Federal Government to organize its decisionmaking processes and deal with the Love Canal situation in a comprehensive and rational manner.

Meanwhile legal actions are being pursued. The families at the Love Canal have banded together to seek redress and have filed suit against Hooker Chemical Co. The State of New York and the U.S. Department of Justice have also filed suit against Hooker.

Congress, too, is considering superfund legislation that could be brought to bear on this problem. I call upon all of my colleagues—particularly those on the Environment and Public Works Committee—to work for the passage of superfund legislation to address the problems of the people at Love Canal and at the other hazardous waste disposal areas throughout the country.

At this point I ask unanimous consent that the attached six articles from the New York Times of May 16, 17, 18, and 19, 1980, be printed in the RECORD.

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

[From the New York Times, May 16, 1980]

LOVE CANAL FAMILIES ARE LEFT WITH A LEGACY OF PAIN AND ANGER

(By Georgia Dullea)

NIAGARA FALLS, N.Y.—The mothers of Love Canal awoke in the summer of 1978 to find their little houses and gardens, which once seemed so safe, transmogrified into poisonous places and, almost instinctively, they began to compile records.

Today it is all there in the scrapbooks, the file drawers, the shoe boxes, wherever the family records repose: There are the first newspaper reports of how toxic chemical wastes long buried in the filled canal by the Hooker Chemical and Plastics Corporation had leached into their backyards and basements. There are results of air monitor readings in their homes, of blood tests on their children.

Copies of desperate letters to this or that public official are preserved in the mothers' scrapbooks, along with records of assessments on their modest frame houses. And, here and there, a matchbook of a menu appears—reminders of months spent in hotels and motels to escape the fumes released while the state was laying drainage pipes around the canal bed.

History was made here and that is one reason to keep scrapbooks. For the mothers, however, there was a more fundamental reason—children. State studies have shown a higher than average rate of birth defects and other health problems among the children of Love Canal.

PLANNED TO HAVE THREE CHILDREN

Barbara and James Quimby, who grew up in the neighborhood, have two children—Brandy, who was born eight years ago with profound and multiple birth defects, and Courtney, 3, who has been hospitalized three times for respiratory problems.

The Quimbys were planning to have at least three children, but now he shrugs and says: "They tell us these chemicals store themselves in the fatty tissues. They can lay dormant two, maybe five years and then, all of a sudden, things start acting in your body. The wife and I decided why take a chance?"

"Brandy will never be able to marry and have children," she says, "but we must educate Courtney to go for genetic testing. I hope the doctors then will understand what to look for. If Courtney has dioxin in her blood, if she could have a child like her sister, I want her to know."

That is why Barbara Quimby started a Love Canal scrapbook. "For Courtney," she said, glancing at the small figure playing on the floor, "so I can say to her: 'Look, Love Canal was real. You lived there and Mommy and Daddy lived there and we had Brandy.'"

HEALTH EMERGENCY DECLARED

The Quimbys still live in Love Canal, not far from the old landfill with its boarded-up houses and half-mile of chain link fence. The state bought 237 of those houses, the ones nearest the canal, after a health emergency was declared. It has agreed to buy 550 more houses, including the Quimbys', but first a local corporation must be formed to administer the state program. For six months now the program has been delayed by political squabbles and red tape. And, despite indications last week that it may get under way soon, Mrs. Quimby has her doubts.

"It's terrible to say this," she admits, "but I don't trust politicans anymore. I won't believe it until I have the money in my hot little hands."

And Mr. Quimby, who says dioxin has been found on the beams of the factory at Bloody Run where he works, speaks with equal pessimism about the system he volunteered to fight for in Vietnam. It angers him that the Americans were exposed to Agent Orange there. It angers him that Cuban refugees are given aid while Love Canal residents have yet to be compensated for damage to homes on which they are still paying mortgages.

"Most of the men I hang around with feel the same way," Mr. Quimby said. "I can think of three or four right off hand who say they'll never serve the country again for the simple reason that when they needed us, we were there. Now they're turning their backs on us. It kind of makes you feel bad."

Such talk does not surprise Adeline Levine, a sociologist at the State University of New York at Buffalo. Working with a team of graduate students, Dr. Levine interviewed 60 Love Canal families when the disaster began to unfold and again a year later.

Disaster victims traditionally have difficulty dealing with government agencies, she said, but the difficulty seemed acute in the case of these lower-middle-class families: "They are good citizens. They pay their bills and their taxes and have served in the military. 'Why,' they ask, 'shouldn't we be taken care of now?'"

Instead, they felt abandoned—not only by the government but also by friends and relatives living outside the canal. From the outside, they were sometimes seen as "making a fuss" over a few chemicals or "making a killing" from the state on their homes. Worse, they were seen as carriers of toxins. Dr. Levine cites the case of the woman who liked to go to a downtown bar for an occasional drink. No matter which end of the bar she stood at, everyone moved to the opposite end.

Along with a sense of abandonment and isolation, many in Love Canal feel a loss of control over their lives. "They realize that this loss of control stems from long-ago decisions to bury chemicals and then to build homes near that spot, not from decisions they made," Dr. Levine said. "Now control rests in large measure on the decisions of distant political figures."

Everywhere they look, it seems homes are worthless, children are sick, marriages are cracking under the strain. When the Love Canal Homeowners Association surveyed families who have moved from here, it found that four out of 10 couples had either separated or divorced.

"Maybe it's because of the economic background," said Lois Gibbs, president of the association. "The husbands feel it's their duty to protect their families. They're macho men. When they can't move them out of here, when the wife is always crying and the kids are sick, they feel so helpless they strike out. It's a horrible feeling. You have no control over your life."

A chemical worker's wife, Mrs. Gibbs is the mother of Michael, 7, and Melissa, 4. Both children have been hospitalized for diseases that their mother suspects are traceable to chemicals found either in their home or in the yard of the old 99th Street School where Michael played.

Like hundreds of other parents here, the Gibbses are suing the Hooker Chemical Company, among others. Hooker dumped the chemicals into the canal landfill between 1947 and 1952 and then deeded the land to the Niagara Board of Education for $1 in 1953, under threat of condemnation by the board, which wanted to build a school there.

The chemical company has been a prime target of Lois Gibbs and her homeowners' association. But they have spared no one in their campaign to dramatize their plight. The other day Mrs. Gibbs and a group of mothers marched into a Niagara County legislators' meeting, wearing red carnations as "the hostages of Love Canal." The mothers then threatened to hold the legislators hostage until they took some action on a proposal concerning the canal. After the board acted, Mrs. Gibbs told a reporter: "We didn't have any guns or anything. We were just planning to body barricade the doors."

Protesting, picketing, being jailed have become a way of life for Lois Gibbs. Two years ago she could barely pronounce the names of the chemicals detected in her basement. Today she tours the country warning of their effects before audiences large and small. Recently, she was invited to speak at Harvard.

"And I never went to college," she said in the kitchen of the tiny apartment where she and the children are now living. "I was a cashier in a grocery store before I became a little housewife."

Over at the homeowners association office, other women were saying much the same thing. "God knows," Joann Hale was saying. "I was just a high school-educated wife and mother with my little white house and my tomato plants."

Mrs. Hale, the mother of two, was expecting her second child, when the State Health Commissioner recommended that pregnant women and children under age 2 be evacuated from the area.

"It was a terrible time," she recalled. "I didn't know if my baby was going to be born normal. I didn't know if the state was going to buy our house or if we would have to file for bankruptcy. So I struck out at my 5-year-old. I physically abused her once."

After that Mrs. Hale went for counseling, it helped, she said, but then she smiled, remembering the pamphlet the local mental health agency sent to the residents of Love Canal:

"It was called 'How to Cope With Stress.' It said 'Read a book, take a jog, walk your dog.' Well, who the hell wants to walk down another street and see some more boarded up houses?"

Marie Pozniak, whose daughter has asthma and who had cancer herself, nodded. "Other people don't understand," she said, summing up what so many people feel here about so many things. "They do not understand. They can go home to their clean houses."

[From the New York Times, May 17, 1980]

DAMAGE TO CHROMOSOMES FOUND IN LOVE CANAL TESTS

(By Irvin Molotsky)

WASHINGTON, May 16.—The Environmental Protection Agency has found evidence that some residents of the Love Canal area in Niagara Falls, N.Y., may have suffered chromosome damage from toxic chemicals buried there, Federal officials reported today.

Sources familiar with the study said that 11 of 36 people tested on Jan. 18 and 19—just over 30 percent—exhibited very rare chromosomal aberrations. Seventeen adult men and 19 adult women were tested, these sources said. None seemed to be ill when they were chosen, as a representative sample, for the blood tests.

The 11 with chromosome damage reportedly exhibited chromosome breakage of an extraordinary nature in that extra pieces had been discovered. Most scientists in this field believe that such chromosomal changes are frequently linked to cancer and should be taken seriously as a harbinger of the disease and that in adults they could lead to genetic damage in offspring.

A spokesman for the Hooker Chemicals and Plastics Corporation, which dumped the chemicals at the site over the years, asserted tonight that the conclusions of the study were "premature" and were bound to cause "unnecessary anxiety" among Love Canal residents.

RESIDENTS NOT YET INFORMED

The Federal officials who disclosed the findings asked not to be identified. Officials of the Environmental Protection Agency declined to confirm the report on the ground that the people involved had not yet been informed.

The agency scheduled a news conference for noon tomorrow to disclose the findings.

Despite the agency's refusal to confirm the report, an indication of the nature of the disclosure came in the speed with which the announcement was scheduled, just a day after a telephone account of the test was received from a laboratory in Houston, Tex.

There have been previous reports of people injured and made ill at the Love Canal, a filled-in, never-completed canal site in Niagara Falls that had been used for years as a chemical dump. Several hundred residents of the area have been relocated in the past two years. The evidence of possible chromosome damage did not come up until this week.

Scientists believe that such chromosome damage could lead to severe birth defects, and some residents of the area have charged in the past that children born there have suffered such defects.

Marlin Fitzwater, a spokesman for the Environmental Protection Agency, said three teams of three persons each had been sent to Niagara Falls and would relate the findings to the residents tomorrow morning, before they are officially announced.

It is expected that several hundred other residents in the area now would be similarly examined. Most of the residents of the area directly affected have moved from their houses.

The tests of the 36 persons' blood samples were performed over the last four months by the Bionetics Corporation in Houston. A company official, Frank Deluca, declined to discuss the results.

When told that the Environmental Protection Agency planned to announce the results tomorrow, Mr. Deluca said: "I must say they got the information out fast. We only

gave them the information a day ago, just 24 hours ago. And what they have, they got over the telephone."

NAMES OF SCIENTISTS INVOLVED

Mr. Deluca declined to discuss the matter further, but it was learned elsewhere that the study was conducted by the following scientists:

Dr. Dante J. Picciano, scientific director of Bionetics, a private testing concern.

Dr. Jack Kilian, the former medical director of Dow Chemical's Texas division and a professor of occupational medicine at the University of Texas School of Public Health. He has been a pioneer in the science of cytogenetics, the study of chomosome abberations and breakage.

Dr. Beverly Paigen of the Roswell Park Memorial Institute, a cancer research center in Buffalo.

In addition, a Love Canal resident, Lois Gibbs, who has been one of the community leaders trying to bring the canal situation to the attention of officials, played a role in selecting the 36 persons who formed the sample.

BROADER STUDY FAVORED

Dr. Paigen, reached tonight by telephone in Buffalo, said that her main role was in persuading the Environmental Protection Agency that a study should be done. She said that the study should be viewed as preliminary, to determine whether a large-scale investigation should be undertaken.

When asked whether the preliminary inquiry had pointed toward the broader study, she answered, "Absolutely."

Like others, Dr. Paigen was reluctant to discuss the findings, saying, "I feel that the first people to know should be those who participated in the study."

In the past, Hooker has contested charges against it, contending, for example, that a $124.5 million suit brought against it by the Justice Department was unwarranted.

Tonight, a Hooker spokesman, Michael Reichgut, said that his company had received a copy of the report and had concluded from it that the findings were not definitive.

Mr. Reichgut said that the report stressed that "prudence must be exerted in the interpretation of such results" and that a larger inquiry ought to be undertaken.

The concern's response went on to quote Donald L. Bader, the president of the Hooker Chemical Company, the parent of the corporation at Niagara Falls, as saying: "The company is concerned for the health and well-being of all residents of the Love Canal community and firmly believes that this report must be followed up immediately.

"We are, however, concerned that these preliminary and uncorroborated medical results, if not properly understood, could cause unnecessary anxiety. To draw any conclusion or take any precipitous action based on these inconclusive findings would be unwarranted and a disservice to the residents of the Love Canal area."

Mr. Bader said that based on analysis of the surroundings of the Love Canal area, "It would be unwise to attribute medical problems to the exposure to Love Canal chemicals."

Mr. Reichgut also criticized tomorrow's announcement of the findings as a "premature release."

SCHOOL BUILT ON CANAL

The evacuation of 239 families from the Love Canal site had the further effect of lending to a dispute between the Federal Government and New York State over which should be assisting the people driven from their homes.

In the suit, the Environmental Protection Agency charged that from 1942 to 1975, Hooker dumped 199,900 tons of chemical wastes at four places in Niagara Falls, much of it at the Love Canal site before it was filled in and turned over to the city.

The city then built a school atop what turned out to be toxic wastes. That school was abandoned at the same time that the residents were forced to move from their homes.

It was on Aug. 4, 1978, that the first families began leaving the contamination site. They toted their cribs and suitcases past a scrawled sign reading, "Wanted, safe home for two toddlers" and "Today is the day they give babies away with half-a-pound of tea."

WE EXPECTED IT

The families moved after the state's Health Department declared a health emergency for the area. The state was particularly concerned with moving out 37 families whose members included pregnant women or infants under 2 years of age.

By the end of the month 200 more families had left after it was discovered that their homes had been contaminated by fumes from hundreds of tons of pesticides, cleaning solutions and other toxic chemicals that had leached through the soil from the canal bed.

[From the New York Times, May 18, 1980]

710 MORE FAMILIES IN LOVE CANAL AREA MAY BE RELOCATED

(By Irvin Molotsky)

WASHINGTON, May 17.—The Environmental Protection Agency said today that findings of chromosome damage in some residents might make it necessary to relocate 710 families who are living near the toxic waste dump in the Love Canal area of Niagara Falls, N.Y.

The 710 families would be in addition to the 239 already moved from houses closer to the Love Canal, a filled-in area that was used for many years by the Hooker Chemicals and Plastics Corporation as a dump site for chemical waste.

The Federal agency's deputy administrator, Barbara Blum, said that the decision on the move would be made next week on the basis of a review by geneticists of an investigation that showed chromosome damage to 11 of 36 Love Canal residents tested, or just over 30 percent. Ordinarily, no person in a sample group that size would be expected to show such chromosome damage.

PLEDGE FROM FEDERAL GOVERNMENT

When the 36 were chosen as a representative sample, there had been previous reports of people living near the waste site who had been made ill, but the evidence of chromosome damage was not reported until yesterday.

Miss Blum estimated the cost of evacuating the area and housing the 710 families at $3 million.

Asked whether the cost would be borne by the Federal Government or New York State—which have disagreed in the past over Love Canal relocation costs—Miss Blum answered:

"The Federal Government will not abrogate any responsibility. I am sure New York State will not abrogate its responsibility either."

In any e ent, she said, "We certainly can't let money stand in the way of relocating the families if that should prove to be necessary," she said. "We will come up with whatever money necessary."

The test was conducted by the Biogenics Corporation of Houston. The chromosome damage found in the 11 persons was a type that has been associated with spontaneous abortion, birth defects and cancers, according to Stephen Gage, a research official in the Federal agency.

Mr. Gage cautioned, however, that "we cannot say definitely that that there is a casual relationship between an abnormality and a disease."

"The science of studying cell abnormalities is not advanced enough," Mr. Gage said. He added, however, that the blood samples of the 36 persons tested indicated exposure to chemicals.

Miss Blum said the tests had been conducted as part of the Justice Department's suit againt Hooker. The suit asks $124.5 million from Hooker to clean up four chemical dumps in Niagara Falls, including the Love Canal.

"When we got the results, they were so alarming that the people had to be notified," Miss Blum said at a news conference at her agency's headquarters. Residents were being told of the results in Niagara Falls as Federal officials were announcing them formally here in Washington.

"There has been a cause for alarm at the Love Canal for a long time," Miss Blum said. "It is one of the worst chemical problems we have discovered in modern society."

A lawyer for Hooker, Thomas H. Truitt, attended the news conference, but declined to comment because of the pending suit by the Justice Department against the company. The company has called the suit unwarranted. Yesterday, another Hooker spokesman, informed of the findings, stressed that "prudence must be exerted in the interpretation of such results."

Mr. Truitt released copies today of a letter to the Justice Department from Donald L. Baeder, the president of the Hooker Chemical Company, which is the parent concern of the Niagara Falls company, along with copies of a statement drafted late last night in response to a request for comment by the New York Times.

"The information you submitted," Mr. Baeder said on the Biogenics report, "is inconclusive that there is a problem caused by any prior exposure to chemicals or that there is any continuing exposure which is hazardous and needs to be alleviated."

Miss Blum was asked why an evacuation decision had been put off until review by the panel of geneticists, and she answered: "It would be unfair to unduly alarm the residents of the area. Another two or three days is not going to make any difference."

She added later, "These people have had so many disruptions in their lives, we would hate to relocate them unnecessarily."

GOVERNOR DEFERS COMMENT

In New York, spokesmen for Governor Carey and other state officials said today that they could not comment until they had received and studied the Federal report.

As to whether the state would contribute to any further relocations, several spokesmen noted that it has appropriated $5 million to "revitalize" the surrounding neighborhood, including the possible purchase of some homes near the site. None of that money has been spent, but there are plans to allocate it to the Niagara Falls Urban Renewal Agency.

Direct state costs related to Love Canal have been put at $35 to $40 million, and a law suit filed by New York State against Hooker and its parent company, Occidental Petroleum, is seeking a total of $95 million in restitution costs, including incidental expenses borne by a variety of state agencies. The suit also seeks $540 million in punitive damages.

At the news conference, Miss Blum said, "We expected to find results nowhere near these."

She said that the 710 families subject to possible evacuation in the next week lived in private houses and in one housing project.

If the evacuation order came, Miss Blum indicated that the Environmental Protection Agency was prepared to move quickly with the planning already having been completed.

Ninety families would be housed in vacant military units on bases within a few miles of Niagara Falls, while others would be housed in mobile units that would be

brought to the area from a storage site in Atlanta.

Still others would be sheltered in private houses, motels and hotels.

The panel that will review the Biogenics Corporation's findings will be convened Tuesday at the National Institute of Environmental Health Services here.

It will be led by Dr. David Rall of that Government agency, and it will be instructed to complete its review by Wednesday.

DECISION BY MIDWEEK

The Environmental Protection Agency will make its relocation decision shortly after receiving the review, Miss Blum said.

The area subject to possible evacuation was defined by Miss Blum as that bounded by 93d Street on the west, Cayuga Drive on the north, 103d Street on the east and Frontier Avenue on the south.

That area has been divided into three rings, depending on proximity to the filled-in canal.

The inner ring is made up of houses and a school directly atop the canal. It has been evacuated fully.

[From the New York Times, May 18, 1980]

DAMAGE TO BODY'S CHROMOSOMES CAN BE CAUSED IN SEVERAL WAYS

(By Robert D. McFadden)

Chromosomes are microscopic, thread-like bodies found in the nucleus of every cell in the human body, as well as in most animals and plants, that carry hereditary information in the form of genes that determines the growth, development and characteristics of an organism.

Human beings have 46 chromosomes in every cell—one pair that determines the sex of an individual and 22 pairs that control the inheritance of all other characteristics.

As cells grow and reproduce by division, newly formed chromosomes and their genes are normally very exact, complete and quite perfect replications of the originals. This remarkably faithful reproductive capacity accounts for the continuity of species generation after generation.

Ordinarily, environmental changes such as gradual variation in temperature, barometric pressure, diet or muscular activity seem to have no effect on the process. However, the normal structure of chromosomes may be changed in several ways.

SOME CHANGES SPONTANEOUS

In all living things, including man, there is a low level of mutation that occurs spontaneously and is difficult to ascribe to any specific cause. These changes may be the result of random environmental effects or of copying errors in an intricate and delicate reproductive system and are thought to be a basic mechanism underlying evolution.

Abnormal changes also may be produced by contact with radiation, chemicals and other environmental hazards. These may cause chromosome damage in various forms, most commonly the breakage of the strand and the fragmentation and disorientation of its component genetic material.

In some cases of chromosome damage, chromosome material may be missing; in rarer cases, additional material—different from that of the original chromosome—is unaccountably found among the fragments.

Such additional material was found in the chromosomes of some of the former residents of the Love Canal area of Niagara Falls, N.Y., in the tests conducted Jan. 18 by the Biogenics Corporation of Houston on behalf of the Federal Environmental Protection Agency.

Scientists who have focused attention in recent years on the effects of toxic substances on genetics have discovered a high correlation between the incidence of cancer and the finding of additional fragments in damaged chromosomes, although the precise causes have not been established.

Moreover, high correlations also have been detected between the incidence of birth defects and chromosome damage in parents. Hundreds of types of chromosome damage, many associated with mental retardation and a variety of physical abnormalities in humans, are known and more are being found continually.

Significant abnormalities in chromosomes occur in about one in every 250 live births, according to the National Institute of General Medical Studies, a unit of the National Institutes of Health. The institute estimates that three-quarters of these genetic errors are harmful and that about one-third of all spontaneous abortions are probably caused by chromosomal abnormalities.

Chromosomes—the word is derived from the Greek words "chroma" (color) and "soma" (body) because chromosomes are deeply colored by certain stains—were probably first identified as distinct cell structures by the Czech biologist Walther Flemmiong in 1873 and have been studied extensively in this century.

But it was not until 1955 that scientists learned that human beings have 46 chromosomes. Most of the known abnormalities and their significance have been found only in the past 20 years. In the past few years, the research has focused on the "mapping" of genes, an attempt to determine the locations of the hundreds of thousands of genetic particles on each chromosome strand.

The research also has focused on the kinds and causes of genetic errors. One tool, employed by the Biogenics Corporation in its testing of the former Love Canal residents, involves drawing a small amount of blood from a person and examining its chromosomes with a microscope.

The Biogenics Corporation is a private research organization that specializes in trying to determine the effects of toxic substances on human genetics.

[From the New York Times, May 18, 1980]

BITTERNESS IN AREA OF LOVE CANAL

(By Josh Barbanel)

NIAGARA FALLS, N.Y., May 17.—Patricia Sandonato walked into a tiny frame house in the Love Canal section of this industrial city today and learned that the phrase "chromosome damage" would become a permanent part of her vocabulary.

As her neighbors chatted nervously in the kitchen of the headquarters of the Love Canal Homeowners Association, behind a chain-link fence containing 237 abandoned homes, Mrs. Sandonato and her husband, Raymond, were ushered into a small bedrcom where three officials of the Federal Environmental Protection Administration prepared to inform them that Mrs. Sandonato was among 11 residents tested who had proved to have damaged chromosomes.

"They just said my chromosomes were abnormal and handed me a letter," Mrs. Sandonato said. "I asked if it affected my kids, and they said they did not know. I fear that my kids might be dying. I'd be afraid to bring another child into the world."

The letter listed the alterations and breakages of the tiny genetic structures in Mrs. Sandonato's blood cells and warned that such abnormalities "over the longer term may be an early warning of future health problems."

As the news of the test results spread through the neighborhood, families complained bitterly about alarms, false hopes and inaction by government officials. And at a news conference called by the Federal agency in a local post office, residents demanded an immediate evacuation of the area.

"We don't want to wait for Wednesday," said one angry man after Charles S. Warren, the regional administrator of the agency, said that a decision on whether or not to evacuate 710 families from the area would be made by then. "We've been waiting for next Wednesday for two years."

After the New York State Health Department declared a "health emergency" in the area in 1978, 237 families were evacuated from around the area where 20,000 tons of solvents, pesticides and other toxic chemicals, including hundreds of pounds of dioxin—one of the most toxic substances known to man—were dumped.

GHOST TOWN IN THE AREA

Now the homes at the center of the neighborhood are boarded up and deserted, creating the stillness of a bungalow colony out of season. The oblong area where the dumping once took place is now covered with a mound of clay and dirt. And drainage pipes carry all water runoff to a special treatment plant.

Last year the state appropriated $5 million for a program to buy homes in the streets that surrounded the site of a never completed canal named after William T. Love, a turn-of-the-century entrepreneur.

From the 1940's through 1977, the Hooker Chemical and Plastics Company used the site as a dump.

But state officials said the "revitalization" plan was created to stabilize the housing market in the area, not to buy up homes. Residents angrily recalled that Dr. David Axelrod, the Health Commissioner, had repeatedly asserted there was no proven connection between birth defects and miscarriages in the neighborhood and chemicals in the canal area."

Dr. Beverly Paigen, a researcher who has worked closely with Love Canal residents, said the findings completed a cycle of proof showing the Hooker chemicals were causing the cancers, birth defects and miscarriages reported by residents.

A NIGHT OF ANXIETY

"This proves that it is the chemicals that are doing it and there is not some other extraordinary reason," she said. "The people should be moved out right away."

Efforts to reach Dr. Axelrod today were unavailing.

The announcement of the test results created a night of anxiety for many of those tested. Some residents stayed up and frantically called friends and officials trying to learn the findings.

"It's like someone took a hundred-pound weight off by back," said William Foy, who lives on 96th Street, a few blocks away from the canal. "But I'm getting to feel like a guinea pig. We are tested and tested and nothing is done."

Mrs. Sandonato said that he had been given four tests so far and that the air in the basement, where she does her washing was found to contain benzine, a known cancer causing agent. She said that her 5-year-old son, Jason, had been born with "minimal brain dysfunction" and would be operated on next week for a deformity in one knee.

"If it will help the kids get out of here, I'll take all the tests in the world," she said. "Governor Carey doesn't want to do anything and the President is killing us. He's not doing anything to get us out of here."

A spokesman for the Governor said he would have no comment until he had a chance to study the Federal report, which state officials have not yet received.

[From the New York Times, May 19, 1980]

AT LOVE CANAL, DESPAIR IS THE PERVASIVE AFFLICTION

(By Josh Barbanel)

NIAGARA FALLS, N.Y., May 18.—Leonard Whitenight didn't plant flowers in his garden in the Love Canal neighbornood this year, and he no longer mows the lawn. "I'm sick of this canal, this city and this state," he said today. "I just want to get away."

His wife, Phyllis, said things were not so

bad. "Thank God we haven't had the problems that other people have," she said, and then told of the removal of her cancerous left breast five years ago, her miscarriage and the deaths of six newborn birds she had kept in her basement.

The Whitenight family is one of 710 preparing for possible evacuation by Federal authorities from a neighborhood that has been contaminated by 20,000 tons of highly toxic pesticides and solvents buried more than 27 years ago in the never-completed Love Canal.

Tests released yesterday showed that 11 of 36 residents studied had significant chromosome damage, and Mr. and Mrs. Whitenight were among them. No definite connection has been proved between such chromosone damage and the effects of the chemicals and such problems as the Whitenight family has suffered. But there is no mistaking the psychological damage such families have suffered as a result of the findings on Love Canal. A decision on whether to move the 710 families will be made, probably by Wednesday, after geneticists review the test results.

Hooker Chemicals and Plastics Company, which dumped the chemicals in the canal, today called the results of the genetic testing "preliminary and uncorroborated" and said that action based on the findings would be "unwarranted and a disservice to the residents of the above canal area."

After learning of the chromosome damage, Mrs. Whitenight sat up through the night worrying about the return of her cancer and the health and safety of her five children. Today, sitting in the kitchen of the three-bedroom ranch home they hoped to leave "as soon as we get the check for a down payment someplace else," the Whitenights recalled two years of fear, frustration and the helplessness of a nightmare beyond their control.

Mrs. Whitenight stepped out of the room, and her husband turned to a visitor. "I have broken down and cried," he said. "I have felt completely helpless."

"And you can go to any home over here and they can tell you the same story," he said.

For the Whitenights, the story began in 1954, a year after Hooker deeded the oblong-shaped canal to the Niagara Falls Board of Education for $1 and a public school had been built on the site. Mr. Whitenight built his house for $15,500 on a 60-by-115-foot plot near a winding rural stream known as Black Creek.

"A WAY OF LIFE" IN NEIGHBORHOOD

Mrs. Whitenight, who despite her apparent calm is "shaking life a leaf inside," grew up in the neighborhood and recalled how "the boys" would skinny dip in the muddy Love Canal. Later, when the Hooker trucks began churning through the area during World War II, the houses would sometimes be covered with a white powder, she said.

"Chemical plants are a way of life here," Mr. Whitenight said. "My dad worked at the DuPont plant and we accepted them. We never thought of the dangers."

In retrospect, the Whitenights clearly see what they believe is the imprint of the chemical contamination. Their daughter, Debbie, who is now 26, had constant throat infections, and at one time an ugly rash appeared on her legs. The nurse at school attributed it to "using the wrong soap."

Mrs. Whitenight also began to notice that cancer became a topic of conversation on 96th Street. At her last count, five women on the block have been treated for breast cancer, including an aunt who died of it. In addition, John Kenney, an 8-year-old boy who lived two doors away died of kidney failure, and a neighbor is suffering from throat cancer.

NOT ALARMED AT EMERGENCY

But the Whitenights had been unaware of any danger prior to the declaration of a health emergency by the state in August 1978. Mr. Whitenight, a printer by trade, held down three jobs at a time to meet the mortgage payments, and their sons fished for pickerel and bullheads in the creek.

When the emergency was declared, the Whitenights were not particularly alarmed. They assumed the state would buy their home and they began looking for someplace else to live. But they were bewildered when after 237 families were evacuated, they were left behind. They were assured that they were in no danger.

"That's when we started getting angry," Mrs. Whitenight said. "We attended meeting after meeting and demonstration after demonstration and they said there was nothing wrong."

But Dr. Beverly Paigen, an environmental researcher at the Roswell Park Memorial Institute in Buffalo, began to examine the old streambeds and filled in swamps in the area including the swale beneath their home.

The researcher theorized that water bearing toxic chemicals was being carried from the canal site by the underground streams, and she found that miscarriages, birth defects and other ailments were clustered in the homes in these low lying areas. Her epidemiological findings were confirmed by the first genetic tests on residents.

A TIME OF FRUSTRATIONS

When they heard about her findings, the Whitenights recalled that 800 loads of fill had been dumped on their lot before they built their home, and the 103d Street School, behind their house, was often soggy and filled with puddles.

During this time, the Whitenights said, frustration followed frustration. At one meeting, Mrs. Whitenight recalls, Dr. David Axelrod, the State Health Commissioner told her that her fears about cancer on 96th Street weren't warranted because the cancer incidence there was no worse than anyplace else.

In December 1978, the extremely toxic substance dioxin was found in a drainage trench on 97th Street. Other toxic substances found in the canal area included benzene, chloroform, tricholoethylene and a pesticide, lindane.

Eventually traces of the poison, which is contained in the defoliant Agent Orange were found in Black Creek, where Mrs. Whitenight's children had played along with John Kenney.

As workers dug drainage ditches around the Love Canal dump, intense fumes filled the neighborhood, causing rashes and coughs and the Whitenights and their neighbors demonstrated until they were moved into the hotels in Niagara Falls for eight weeks at the state's expense.

Last September, the 103d Street School was permanently closed, and after a black substance—which Mr. Whitenight reported was determined to be harmless flyash, "at least on that day"—oozed out of the soggy infield the board of education spent $5,000 to dig it up and place a layer of plastic underneath.

For its part, the state set up a $5 million program to buy up homes in the area and the Whitenights were told they would receive $36,500 for their home.

But the program has been delayed and wrangling among local jurisdictions, and the Niagara County government has, so far, refused to participate.

In the belief that the problem was going away the Whitenights and their neighbors were granted an 80 percent tax abatement in 1978, which has been reduced by 20 percent of the assessed value each year since.

CONFUSION IS RIFE

"No matter what happens everyone still says the area is safe," Mrs. Whitenight said. "First they tell us there is dioxin in the drainage ditches, and they tell us it is terribly dangerous and then they say the area is safe and there's no need to move out."

Before "Love Canal" became synonymous with environmental disaster, Mr. Whitenight had remodeled his kitchen and installed bright yellow aluminum siding outside. Now he has lost interest and Mrs. Whitenight is selling off her collection of more than 60 canaries and other birds in preparation for a move. In the basement where Mrs. Whitenight does the family wash, black stains score a wall where brackish water has seeped in through the foundation.

As soon as the Whitenights receive the payment for their home, they plan to move to Austin, Tex., where Mr. Whitenight, still sunburned from a recent scouting trip, has already picked out a new neighborhood. In Texas, Mr. Whitenight said, he says he would earn at least $60 less a week. But, he said, it was worth it.

"There's plenty of sun and fresh air, and there isn't a chemical plant nearby," he said. "That's a question I would never have thought to ask before."

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 Presiding Officer 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.)

REPORT OF RESCISSIONS AND DEFERRALS—MESSAGE FROM THE PRESIDENT—PM 207

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 Appropriations, the Committee on the Budget, the Committee on the Judiciary, the Committee on Armed Services, the Committee on Energy and Natural Resources, and the Committee on Environment and Public Works, jointly, pursuant to order of January 30, 1975:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report a proposal to rescind $12.4 million in budget authority previously provided by the Congress. In addition, I am reporting six revisions to previously transmitted deferrals increasing the amount deferred by $130.6 million.

The recission proposal involves law enforcement assistance in the Department of Justice. The revisions to existing deferrals involve programs in the Departments of Defense, Energy and Jus-

tice, and the Environmental Protection Agency.

The details of the rescission proposal and each deferral are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *May 20, 1980.*

MESSAGE FROM THE HOUSE

At 2:04 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 175. Joint resolution to extend the expiration date of the Defense Production Act of 1950.

The message also announced that the House has passed the following bill, with an amendment in which it requests the concurrence of the Senate:

S. 2382. An act to provide for additional authorization for appropriations for the Tinicum National Environmental Center.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4975. An act to establish the Orange Coast National Urban Park, and for other purposes;

H.R. 5837. An act to authorize payment from the Civil Service Retirement and Disability Fund for the expenses of retirement appeals;

H.R. 6395. An act to amend the Consumer Product Safety Act to modify certain postemployment restrictions applicable to officers and employees of the Consumer Product Safety Commission;

H.R. 7105. An act entitled the "National Hostel System Act of 1980";

H.R. 7191. An act to establish the Snug Harbor National Wildlife Refuge;

H.R. 7217. An act to enact certain provisions relative to units of the National Park System in the State of Hawaii, and for other purposes;

H.R. 7330. An act to authorize appropriations for certain insular areas of the United States, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 329. Concurrent resolution expressing the deep concern of the Congress over the plight of Cambodian people and its strong support for humanitarian assistance for those people and a peaceful resolution of the conflict in Kampuchea; and

H. Con. Res. 332. Concurrent resolution disapproving certain regulations submitted to the Congress on April 24, 1980, with respect to the law-related education program authorized under sections 346, 347, and 348 of the Elementary and Secondary Education Act of 1965.

HOUSE BILLS AND CONCURRENT RESOLUTIONS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 4975. An act to establish the Orange Coast National Urban Park, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 5837. An act to authorize payment from the Civil Service Retirement and Disability Fund for the expenses of retirement appeals; to the Committee on Governmental Affairs.

H.R. 6395. An act to amend the Consumer Product Safety Act to modify certain postemployment restrictions applicable to officers and employees of the Consumer Product Safety Commission; to the Committee on Commerce, Science, and Transportation.

H.R. 7105. An act entitled the "National Hostel System Act of 1980"; to the Committee on Energy and Natural Resources.

H.R. 7191. An act to establish the Snug Harbor National Wildlife Refuge; to the Committee on Environment and Public Works.

H.R. 7217. An act to enact certain provisions relative to units of the National Park System in the State of Hawaii, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 7330. An act to authorize appropriations for certain insular areas of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

The following concurrent resolutions were read by title and referred as indicated:

H. Con. Res. 329. Concurrent resolution expressing the deep concern of the Congress over the plight of Cambodian people and its strong support for humanitarian assistance for those people and a peaceful resolution of the conflict in Kampuchea; to the Committee on Foreign Relations.

ENROLLED BILLS SIGNED

The PRESIDENT pro tempore (Mr. MAGNUSON) reported that on today, May 20, 1980, he signed the following enrolled bills, which had previously been signed by the Speaker of the House of Representatives:

S. 2648. An act to authorize appropriations for the Federal Election Commission for fiscal year 1981; and

H.R. 6615. An act to amend the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 to authorize appropriations to carry out the provisions of such Act for fiscal years 1981 and 1982, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 20, 1980, he had presented to the President of the United States the following enrolled bill:

S. 2648. An act to authorize appropriations for the Federal Elections Commission for fiscal year 1981.

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-3844. A communication from the Secretary of the Senate, transmitting, pursuant to law, a report of receipts and expenditures of the Senate, showing in detail the items of expense under proper appropriations, the aggregate thereof, and exhibiting the exact condition of all public moneys received, paid out, and remaining in his possession from October 1, 1979, through March 31, 1980; ordered to lie on the table and be printed.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 440. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2443. Referred to the Committee on the Budget.

S. Res. 441. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5892. Referred to the Committee on the Budget.

By Mr. ROBERT C. BYRD (for Mr. KENNEDY), from the Committee on the Judiciary, without amendment:

S. Res. 442. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2377. Referred to the Committee on the Budget.

By Mr. ROBERT C. BYRD (for Mr. KENNEDY), from the Committee on the Judiciary, with an amendment:

S. 2377. A bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1981, and for other purposes (Rept. No. 96-786).

By Mr. DOLE, from the Committee on the Judiciary, without amendment, but with a preamble:

S. Res. 422. A resolution to proclaim "National Circle K Week."

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

A report to accompany S. 2443, a bill to authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York (Rept. No. 96-787).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BAYH (for Mr. KENNEDY), from the Committee on the Judiciary:

Samuel James Ervin III, of North Carolina, to be U.S. Circuit Judge for the Fourth Circuit.

William Cameron Canby, Jr., of Arizona to be U.S. Circuit Judge for the Ninth Circuit.

Raul A. Ramirez, of California, to be U.S. District Judge for the Eastern District of California.

Robert B. Propst, of Alabama, to be U.S. District Judge for the Northern District of Alabama.

E. B. Haltom, Jr., of Alabama, to be U.S. District Judge for the Northern District of Alabama.

John David Holschuh, of Ohio, to be U.S. District Judge for the Southern District of Ohio.

Ann Aldrich, of Ohio, to be U.S. District Judge for the Northern District of Ohio.

George Washington White, of Ohio, to be U.S. District Judge for the Northern District of Ohio.

Charles L. Hardy, of Arizona, to be U.S. District Judge for the District of Arizona.

Milton Irving Shadur, of Illinois, to be U.S. District Judge for the Northern District of Illinois.

Clyde S. Cahill, Jr., of Missouri, to be U.S. District Judge for the Eastern District of Missouri.

Frank J. Polozola, of Louisiana, to be U.S. District Judge for the Middle District of Louisiana.

Patrick F. Kelly, of Kansas, to be U.S. District Judge for the District of Kansas.

W. Earl Britt, of North Carolina, to be U.S. District Judge for the Eastern District of North Carolina.

Walter Herbert Rice, of Ohio, to be U.S. District Judge for the Southern District of Ohio.

S. Arthur Spiegel, of Ohio, to be U.S. District Judge for the Southern District of Ohio.

George Ross Anderson, Jr., of South Caro-

lina, to be U.S. District Judge for the District of South Carolina.

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. SIMPSON (for himself, Mr. WALLOP, Mr. GRAVEL, and Mr. MCCLURE):

S. 2736. A bill to exclude certain lands from the Grand Teton National Park; to the Committee on Energy and Natural Resources.

By Mr. RIBICOFF (by request):

S. 2737. A bill to amend section 3102 of title 5, United States Code, and section 7 of the Federal Advisory Committee Act to permit the employment of personal assistants for handicapped Federal employees both at their regular duty station and while on travel status; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN:

S. 2738. A bill to establish the Snug Harbor National Wildlife Refuge; to the Committee on Environment and Public Works.

By Mr. TALMADGE:

S. 2739: A bill for the relief of Virach Pinichchantranukool; to the Committee on the Judiciary.

By Mr. DURENBERGER:

S. 2740. A bill to amend the Internal Revenue Code; to the Committee on Finance.

By Mr. ARMSTRONG:

S. 2741. A bill to designate certain national forest lands in the State of Colorado as units of the National Wilderness Preservation System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DURENBERGER:

S. 2742. A bill to amend the Internal Revenue Code of 1954 to provide that severance pay resulting from a plant closing shall be subject to tax at reduced rates; to the Committee on Finance.

By Mr. BOSCHWITZ:

S. 2743. A bill for the relief of Christian Vallier; to the Committee on the Judiciary.

S. 2744. A bill for the relief of Mireille Debriat; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. ROTH, Mr. CHAFEE, Mr. BAKER, Mr. DANFORTH, Mr. WALLOP, Mr. GOLDWATER, Mr. SCHWEIKER, Mr. HATFIELD, Mr. HEINZ, and Mr. GARN):

S. 2745. A bill to amend the Internal Revenue Code of 1954 to provide for the establishment of, and the deduction of contributions to, education savings accounts and housing savings accounts; to the Committee on Finance.

By Mr. HART:

S. 2746: A bill to amend the Internal Revenue Code of 1954 with respect to the issuance of mortgage revenue bonds; to the Committee on Finance.

By Mr. INOUYE (for himself, Mr. CANNON, Mr. MAGNUSON, Mr. LONG, Mr. HOLLINGS, Mr. WARNER, and Mr. PACKWOOD):

S.J. Res. 176. A joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 5, 1980, as "National Port Week", and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMPSON (for himself, Mr. WALLOP, Mr. GRAVEL, and Mr. MCCLURE):

S. 2736. A bill to exclude certain lands from the Grand Teton National Park; to the Committee on Energy and Natural Resources.

JACKSON HOLE AIRPORT

Mr. SIMPSON. Mr. President, I am pleased to introduce legislation to exclude a very limited and selected parcel of land from Grand Teton National Park.

The Jackson Hole, Wyo. Airport has provided a needed service to western Wyoming for many years. The airport was not originally included within the boundaries of Grand Teton National Park. In fact, the airport served the Jackson area for some 15 years—in the present location—before 1950 when the boundary of Teton Park was altered to include the airport. Since that time the airport has operated under the authority of a special use permit granted by the National Park Service.

Mr. President, the operation of the airport within the Teton Park has become increasingly problematical in that the Jackson Hole Airport is the only full service commercial airport in the United States located wholly within a national park. As park tourism levels have increased, and as the city of Jackson has increased in population, there has been additional need for dependable air transportation for that community. This is a year-round need, as winters in western Wyoming attract the skiing public and weather considerations often dictate that air transportation is the only form of transportation available to the traveling public.

The Secretary of the Interior, Cecil Andrus, has determined that the airport is "incompatible" with the use and purpose of a national park—despite the fact that the Department of the Interior has sanctioned and approved the development and use of the Jackson Hole Airport for the past 25 years in its present location. Nonetheless, the Secretary has suggested that when the current special use permit expires in the year 1995 that it should not be renewed. There has also been the threat that the special use permit may be canceled upon the introduction of commercial jet service at that facility. Currently, the facility is being served capably by turbo-prop aircraft operated by Frontier Airlines. That airline is currently in the process of converting to all jet service, and indicates the conversion will be completed by the end of 1981, or early 1982.

The community of Jackson, Wyo.—and the hundreds of thousands of people who visit this beautiful and scenic area each year—need and deserve dependable air transportation. The community needs to know that its airport will not be closed by the National Park Service at a time when Frontier Airlines—or any other airline that might serve the facility in the future—might introduce commercial jet service.

Last year nearly 60,000 persons boarded commercial aircraft at the Jackson Hole Airport. In addition, a substantial number of general and private aviation operations are conducted throughout the year at that facility. It is obvious that closure of the Jackson Hole Airport would have a most serious and harmful impact on the traveling public.

A thorough search has failed to disclose a suitable site for possible relocation of the Jackson Hole Airport. Therefore, we now must take action that will insure the community of Jackson, and the traveling public, of continued commercial air service. My bill would alter the boundary of Teton National Park to exclude the airport from park control and cause it to revert back to the same Bureau of Land Management jurisdiction under which it operated for some 15 years. This legislation would also specify that the operation of the airport is not "incompatible" with any BLM permit policies or its multiple use mission.

Please carefully note that the alteration of the park boundary is a very minor change. The airport is sited in the extreme southern portion of Grand Teton National Park, very near the park boundary. The amount of land transferred to BLM control under this legislation will total about 550 acres, less than 1 square mile.

There will be those who will argue that this transfer of jurisdiction of the land upon which the Jackson Hole Airport exists will not resolve the ecological concerns recently expressed by the Secretary of the Interior. Indeed, the airport will continue to operate much as it has in the past, and will very likely grow in proportion to the general poulation and business increases that are seen in Teton County, Wyo.

I should also like to make the clear and important point that the Jackson Hole Airport is not the only "nonwilderness" facility currently operating within Teton National Park. The park contains luxury hotels, motels, trails, horse concessions, private homes, boats, boat marinas, restaurants, bars, mountain climbing, schools, housing developments, schools, sewer systems, camp grounds, administration and maintenance buildings and equipment, ranches, gasoline stations, fishing tackle shops and 150 miles of paved highway upon which approximately 1 million vehicles travel each year.

I submit that the operation of these facilities—as well as the Jackson Hole Airport—has not been wholly offensive to park use, goals and guidelines. It is incumbent upon the National Park Service to make park facilities and parklands outside of specifically designated wilderness areas accessible for public use and enjoyment. The operation of all facilities—including the Jackson Hole Airport—that have been traditionally a part of Grand Teton National Park assist in fulfilling that obligation to the general public.

The Jackson Hole Airport Board has worked diligently to devise an effective noise abatement plan and many other measures destined to minimize any harmful environmental intrusion on Teton Park. It is also of interest to note that during the past 8 years approximately $450,000 in Federal funds have been spent on various studies directly relating to the Jackson Hole Airport improvements projects. Studies have also been conducted to determine the precise effect of airport operations on the area's environment—the most recent of which was an environmental impact study on proposed Boeing 737 jet service. That study was prepared by the Federal Avia-

tion Administration at the request of Frontier Airlines.

The EIS was released for public review and comment on July 20, 1979, and was published in the Federal Register. The study concluded that the environmental impact of 737 jet service would be minimal. The EIS reported that the 737 aircraft produced only slightly more noise on takeoff than the Convair 580 aircraft which are currently serving the airport, and which have served that facility for many years. The 737 jets produced less noise than representative general aviation jets, according to the study, the airport approach sound levels are approximately the same as the 580—although the 737 becomes considerably less noisy than the 580 at further distances. Overall, the noise impact is nearly equivalent.

The study further concludes that there will be no significant impact on the air or water quality of the area—regardless of the type of aircraft proposed and authorized to operate in the future at the Jackson Hole Airport. The study concludes that social and economic impacts will be beneficial to the local area and that there will be little negative impact of any type.

I fully recognize and deeply respect the need for proper environmental safeguards in the Jackson Hole area—and indeed have fought for those. However, the many studies conducted have not shown that commercial jet service would cause a deterioration of the area's present ecological status.

The legislation I am today introducing—to remove the airport from Teton National Park and place it under Bureau of Land Management control is a logical and reasonable step. This bill will remove the very real possibility that the citizens of the area—and those many persons who visit the stunning Jackson Hole country—will lose future air transportation through the cancellation of the special use permit under which the airport now operates. That is only a fair and reasonable assurance to make to the multitude of persons who depend greatly on appropriate and convenient transportation in and to Jackson Hole, Wyo.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2736

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) effective on the date of the enactment of this Act, the boundaries of the Grand Teton National Park shall be deemed revised so as to exclude from within the exterior boundaries of such Park those lands, including improvements thereon, comprising the area utilized by the Town of Jackson, Wyoming, and the County of Teton, Wyoming, for the operation of a public airport facility, such lands being those lands covered by the special use permit numbered SP 1460-9-9022, effective August 1, 1979, and issued by the United States to the Jackson Hole Airport Board.

(b) The Secretary of the Interior shall take such action as may be necessary to revise, correct and redefine such maps and other documents to the extent required to reflect the boundary changes of the Grand Teton National Park resulting from the enactment of this Act.

(c) On and after the date of the enactment of this Act, the Secretary of the Interior, acting through the Bureau of Land Management, shall administer the lands described in such special use permit referred to in subsection (a) of this section in accordance with the terms of such permit, and such permit shall continue to be valid and in effect until its expiration date of April 28, 1995.

SEC. 2. On and after the date of the enactment of this Act, and after the expiration of the special use permit referred to in Subsection (b), Teton County, Wyoming, and the Town of Jackson, Wyoming, shall be authorized to continue to use such described lands for operating a public airport facility, and such use shall be deemed to be a use compatible with the purpose and operation of the neighboring Grand Teton National Park. Such use shall also be deemed a compatible use of Bureau of Land Management lands in accordance with the multiple use concept for management of public lands. The provisions of this section shall be applicable without regard to whether the permit referred to in the first section of this Act is renewed or otherwise extended prior to or after its expiration.

● Mr. WALLOP. Mr. President, I would like to state my support for my Wyoming colleague's bill to alter the boundaries of Grand Teton National Park. Wyo., so as to exclude the Jackson Hole Airport.

We have in Jackson Hole, Wyo., a situation which must be resolved. Local residents, the local and county governments, the Jackson Hole Airport Board, the State of Wyoming, numerous Federal agencies, and interested citizens throughout our Nation have been debating for years about the Jackson Hole Airport, located in Grand Teton National Park in northwestern Wyoming. Over the last decade almost half a million dollars in Federal funds, plus more private money, has been spent on myriad studies reviewing every facet of this airport's service, facilities, and ultimate fate. The debate most recently has centered on two crucial questions: Should commercial jet service be introduced to replace the existing commercial turboprop air service, and should the airport remain in its present location in the park when its current special use permit expires in 1995?

Despite the understandable concern of many people over the effect of commercial jet service on the park setting, study after study has failed to show that the proposed Boeing 737 jet service into this airport would harm or ruin the unique Jackson Hole environment. Numerous investigations indicate that jet service's impact on air and water quality will be minimal. EPA air pollution emission data shows that jet service will result in very low emissions which will not significantly deteriorate air quality, will not affect visibility, and will meet class I air quality standards. Noise data shows that the proposed commercial jet service is quieter than existing general aviation and private jet noise, and that a noise abatement plan which has been developed by the National Park Service, EPA, and the Jackson Hole Airport Board would markedly decrease overall aircraft noise over park-sensitive areas and the town of Jackson. The FAA is in the process of making a decision on jet service to the valley, but the outcome remains uncertain and will undoubtedly be controversial.

Adding heat to the fire, Secretary of the Interior Cecil Andrus recently announced that the airport is incompatible with the park environment, and that the airport's lease should not be renewed when the present special use permit expires. This finding flies in the face of numerous facts, and should be firmly rejected. The airport is but one of numerous commercial facilities in the park which provide a wide array of services to visitors, park employees, and local residents. It has been in operation for years with the express approval of the Park Service. Numerous studies have failed to turn up any realistic, convenient alternate airport site which could service Jackson Hole and the park. Removal of the airport would eliminate the only form of mass transportation to this area and to Grand Teton National Park, which together with Yellowstone to the north, is visited by millions of tourists every year.

I fail to understand how, when this Nation vitally needs to reduce oil imports by increasing conservation and cutting gasoline consumption, this administration can advocate ending the major form of public transportation to this region. Our need to conserve energy is, in and of itself, a strong environmental incentive for maintaining the airport and improving the quality of air service to Jackson Hole.

Modern, efficient air transportation to the existing airport is clearly vital to the local economy, which depends heavily on tourism to sustain its growing, year-round economy, and it is also important to the regional and State economies and well-being. There is strong and growing support for improving service to the existing airport, both locally and at the State level, and Wyoming's congressional delegation unanimously supports improving service to the existing airport. There is also a growing recognition that the conservation ethic, to which most people in Wyoming and I subscribe, cannot be so inflexible as to exclude compatible development within outstanding natural areas. It is our challenge to distinguish between real environmental hazards and new development which does no harm to environmental goals.

This legislation seeks to insure that the Jackson Hole Airport will remain in its present location by moving the boundaries of Grand Teton National Park so as to exclude the airport from the park and place it under BLM jurisdiction, with the finding that the airport is a compatible use of both the BLM and park lands. While there are some obstacles associated with this approach, and both Senator SIMPSON and I are well aware of them, I support this proposal in the hope these problems can be resolved.

Other solutions have been suggested. Most have been rejected as unrealistic. Every realistic solution should be pursued, but to be practical they must take into account energy use and limited financial resources of both the State and

the Federal Government. I will work with Senator SIMPSON, local people, and the Congress to find a solution once and for all to end this debate and to provide Jackson Hole with modern, efficient air service while continuing to safeguard the natural and social environment of this outstanding corner of Wyoming.●

By Mr. RIBICOFF (by request):

S. 2737. A bill to amend section 3102 of title 5, United States Code, and section 7 of the Federal Advisory Committee Act to permit the employment of personal assistants for handicapped Federal employees both at their regular duty station and while on travel status; to the Committee on Governmental Affairs.

● Mr. RIBICOFF. Mr. President, at the request of the Director of the Office of Personnel Management (OPM), I am introducing legislation to amend section 3102 of title 5, United States Code, and section 7 of the Advisory Committee Act to permit the employment of personal assistants for handicapped Federal employees both at their regular duty station and while on travel status.

I ask unanimous consent that the materials submitted by the OPM be printed in the RECORD. These materials are the text of the bill, the accompanying letter, the section analysis, and the state of purpose and justification.

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

S. 2737

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3102 of title 5, United States Code, is amended by adding at the end thereof the following new subsections:

"(e)(1) For the purposes of this title, a "handicapped employee" is an employee of the Federal Government who is also a "handicapped individual" as defined in section 706 of title 29.

"(2) The head of each agency may employ or assign, subject to section 209 of title 18 and to the provisions of this title governing appointment and chapter 51 and subchapter III of chapter 53 of this title governing classification and pay, personal assistants essential and necessary in order that a handicapped employee may perform his official duties. The employment of such assistance shall be subject to such regulations as shall be promulgated by the Office of Personnel Management.

"(3) Personal assistants shall be available to perform other duties as designated by the head of the agency in addition to responsibilities under this section.

"(f) When the head of an agency determines that it is in the Government's interest that a handicapped employee travel in order to perform a Government function, the head of the agency may authorize—

(1) the payment of travel expenses and per diem to another Federal employee to accompany the handicapped employee during the authorized travel period; or

(2) the issuance of travel orders to the handicapped employee which provide for the payment, either directly or by reimbursement, for the personal services of an individual to accompany the handicapped employee during the authorized travel period. Payment for such personal services shall not exceed the amount which could be paid to a Federal employees, assigned to perform such services, in compensation, travel expenses, and per diem. Such a personal assistant shall not be considered a Federal employee for any purposes other than for the purposes of chapter 81 of this title (relating to compensation for injury) and sections 2671 through 2680 of title 28 (relating to tort claims)."

FEDERAL ADVISORY COMMITTEE ACT PROVISIONS FOR PERSONAL ASSISTANTS

SEC. 2. Section 7 of the Federal Advisory Committee Act is amended by inserting therein the following new subsection (d)(3):

"(d)(3) Members, staffs, and consultants of advisory committees who are 'handicapped individuals' as defined in section 706 of title 29, United States Code, when performing advisory committee duties, may be provided the services of a personal assistant pursuant to the provisions of subsections 3102(e) and (f) of title 5.".

EFFECTIVE DATE

SEC. 3. The provisions of this Act shall take effect sixty days after the date of the enactment of this Act.

OFFICE OF PERSONNEL MANAGEMENT,
Washington, D.C., May 8, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Submitted herewith is a draft bill to amend Section 3102 of title 5, United States Code and section 7 of the Advisory Committee Act to permit the employment of personal assistants for handicapped Federal employees both at their regular duty station and while on travel status.

This legislation would extend a right which currently exists for blind and deaf employees to all physically handicapped employees. It will permit the effective utilization of the services and talents of many severely physically handicapped Federal employees and will enhance the Government's role as a model employer of handicapped individuals.

The use of readers and interpreters for blind and deaf employees has proven to be a successful program. Extending similar authority for employees with other physical handicaps should prove to be equally effective.

The Office of Management and Budget advises that there is no objection to the submission of this draft legislation and that its enactment would be consistent with the Administration's objectives.

The same letter is being sent to the President of the Senate.

Sincerely yours,

ALAN K. CAMPBELL,
Director.

SECTION ANALYSIS

The bill would amend section 3102 of title 5, United States Code, by adding new subsections (e) and (f) and section 7 of the Federal Advisory Committee Act by adding a new subsection (d)(3).

Section 1 of the bill amends section 3102 of title 5.

Subsection (e) consists of three paragraphs that would authorize the employment of personal assistants for handicapped employees. Paragraph (1) defines "handicapped employees."

Paragraph (2) authorizes the employment of individuals to work as personal assistants to handicapped employees. This paragraph is similar to existing provisions of law which allow the employment of individuals as readers and interpreters for blind and deaf employees.

Paragraph (3) clarifies the previous paragraph by authorizing personal assistants to perform additional work. It is unlikely that any employee would devote his or her entire work day to providing such services.

Section (f) consists of two paragraphs which authorize the payment of travel, per diem, and salary for personal assistants who provide service to handicapped employees on travel status.

Subsection (1) provides for such payment to Government employees.

Subsection (2) provides for payment for services rendered by nongovernment employees. This payment can be made directly or by reimbursement to the handicapped employee who has travel orders which authorize personal assistants.

Section 2 of the bill provides the same provision as section 1 for personal assistants for members, staffs, and consultants to advisory committees.

STATEMENT OF PURPOSE AND JUSTIFICATION

A draft bill to amend section 3102 of title 5 United States Code and section 7 of the Federal Advisory Committee Act.

The purpose of this legislation is to increase employment opportunities for the physically handicapped by permitting the Government to pay for personal assistants for such employees. The legislation also authorizes compensation for personal assistants for advisory committee members, staffs, and consultants.

Under existing law agencies are authorized to employ or assign employees as readers for the blind and interpreters for the deaf. However, Congress has not enacted legislation that provides for similar assistance for other handicapped employees. As a result, the Comptroller General of the United States has ruled (B–188710) that agencies may not authorize reimbursement of compensation for attendants of handicapped employees.

This legislation would end a system of treating the needs of handicapped employees differently depending on the nature of the handicap. This legislation would provide for Government-wide authorization for the employment of personal assistants for all handicapped employees requiring such assistants. The bill also provides authorization for personal assistants to be paid from Government funds for services provided to a handicapped employee in travel status.

This legislation is consistent with a large body of legislation designed to provide equal employment opportunities to all, including disabled individuals.

Passage of this bill will provide the Government with several benefits. First, it will permit the effective utilization of the services and talents of all employees, not just those without physical handicaps. Second, it will continue to demonstrate the Government's role as a model employer of the physically handicapped. Third, the provisions of this bill will provide an additional incentive for handicapped individuals to contribute actively to society and to provide their own economic support.●

By Mr. MOYNIHAN:

S. 2738. A bill to establish the Snug Harbor National Wildlife Refuge; to the Committee on Environment and Public Works.

SNUG HARBOR WILDLIFE REFUGE

Mr. MOYNIHAN. Mr. President, I rise today to submit legislation that creates a wildlife refuge at Sailors Snug Harbor on Staten Island, N.Y. New York City purchased this unique area in the early seventies, and for the last 4 years it has served as an invaluable environmental, educational, and cultural center for the New York metropolitan area.

The proposed Snug Harbor Wildlife Refuge would include 80 acres of land, divided among grasslands, woodlands, marsh, pasture, lake, and existing construction. It is notable for its concentration of gray squirrels, rabbits, and raccoons, and for its brilliant bird populations, including egrets, herons, pheas-

ants, mourning doves, and a variety of ducks. Many rare plant species are present in the area in addition to its beautiful woods of maple and cherry. The seamen who inhabited Snug Harbor in the past would customarily return from their journeys with exotic plant varieties, which can now be found there in the wild. In addition to the plants and wildlife, the site includes several structures of national significance and is already recognized as a national historical district and a State landmark. In all, it is a truly lovely site well worthy of Federal interest, protection, and funding.

The bill that I am proposing today would enable New York State to donate this unique property to the Federal Government, to be preserved and protected as a national wildlife refuge. The Federal Government would be responsible for routine operation and maintenance expenses for the refuge including necessary technical assistance. Administration and policymaking responsibility would not change hands, but would remain with the Snug Harbor Cultural Center, Inc., an organization under permit from the city of New York to maintain the Harbor for public use. In addition, the responsibility, for the rehabilitation and necessary repairs of the buildings in the area would remain local, to be coordinated by the cultural board with assistance from the State, city, and for other organizations; Federal money is expressly not intended for these expenses.

In the House of Representatives, this measure is sponsored by my colleague, Representative JOHN MURPHY, of New York, whose Committee on Merchant Marine and Fisheries reported this bill favorably. The full House action approved this measure just this week.

I ask unanimous consent that the bill be printed in the RECORD at this point.

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

S. 2738

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) if—

(1) the property known as Sailors' Snug Harbor, consisting of approximately eighty acres and located in the city of New York, is donated to the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") by the city of New York; and

(2) The Secretary and the city of New York and the Snug Harbor Cultural Center, Incorporated, enter into mutually satisfactory cooperative agreements of the kind described in Section 3;

the Secretary shall designate Sailors' Snug Harbor as the Snug Harbor National Wildlife Refuge (hereinafter referred to in this Act as the "refuge").

SEC. 2. Except as may be provided for in cooperative agreements referred to in paragraph (2) of the first section of this Act, the refuge shall be administered in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966. The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate to carry out the purposes of this Act.

SEC. 3. The Secretary and the city of New York and the Snug Harbor Cultural Center, Incorporated, shall endeavor to enter into cooperative agreements regarding the respective functions each such party will undertake with respect to the refuge; except that the Secretary shall be responsible for the protection of, and the provision of technical assistance with respect to, the refuge, as well as for costs incurred in the operation and maintenance of the refuge.

SEC. 4. For purposes of section 401 of the Act of June 15, 1935 (commonly known as the "Refuge Revenue Sharing Act"), the refuge may not be considered to be, nor treated as, a fee area within the meaning of the subsection (g)(2) of such section 401.

SEC. 5. Nothing in this Act may be construed as affecting in any manner, or to any extent, the eligibility (as in effect on the day before the date of the enactment of this Act) of the city of New York, the Snug Harbor Cultural Center, Incorporated, or the State of New York, under any Federal law for funds or other assistance for use in the restoration or preservation of historic buildings, or in the carrying out of developmental and recreational projects and programs, within the area included in the refuge.

SEC. 6. There are authorized to be appropriated to the Department of the Interior not to exceed $1,750,000 for purposes of carrying out this Act during the period covering fiscal years 1981, 1982, and 1983; except that no part of any funds appropriated pursuant to this section may be expended for the restoration or preservation of any building within the refuge.

By Mr. DURENBERGER:

S. 2740. A bill to amend the Internal Revenue Code; to the Committee on Finance.

INDUSTRIAL DEVELOPMENT BONDS

Mr. DURENBERGER. Mr. President, I rise to introduce a bill which amends the Internal Revenue Code relating tc industrial development bonds.

Mr. President, the proposed refunding amendment to section 103(b) is designed to allow the port authority of the city of St. Paul to advance refund prior issues of revenue bonds. Such refundings will relieve the port authority of restrictive covenants, improve its cash flow, and thus strengthen the port authority's ability to finance future projects.

Port authority revenue bonds are unique because, unlike typical industrial revenue bonds, port authority revenue bonds are secured by a pledge of almost all of the port authority's revenues derived from facilities owned by the port authority but leased to private companies. This "pooled security" has allowed the port authority to finance many projects which would not attract private financing standing alone. To market the bonds, however, the port authority had to enter into many restrictive covenants which have impacted on the entire operation of the port authority and its ability to issue bonds in the future.

The problem is that refunding the prior issues is the only practical remedy the port authority has of relieving itself of restrictive covenants no longer required by existing market conditions. This remedy, however, is not available to the port authority because of the fact that the interest on such refunding bonds would not be exempt from Federal income taxation under the existing provisions of section 103(b) of the Internal Revenue Code. The proposed bill solves that problem.

The proposed refunding amendment to section 103(B) allows the port authority to improve its cash flow by requiring that any debt service savings gained by the refunding accrue for the benefit of the port authority rather than be passed on to the private companies using the facilities financed by the bonds being refunded. This requirement further enhances the ability of the port authority to finance future bonds issues backed by a pledge of revenues derived from port authority facilities.

In short, Mr. President, the proposed refunding amendment solves a problem which is essentially unique to the port authority of St. Paul, and because of the narrow scope of the amendment, would not impact throughout the rest of the country.

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. 2740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part III of subchapter B of Chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 103(b)(8) as section 103(b)(9) and by inserting after 103(b)(7) the following new section:

"(8) Advance refund of qualified issues.—

(A) IN GENERAL.—Paragraph (1) shall not apply to a refunding issue if—

(i) the refunding issue is secured by a pledge of substantial revenues of the issuer derived from 20 or more facilities operated or leased by the issuer,

(ii) the issuer of such refunding issue is a political subdivision engaged primarily in promoting economic development.

(iii) the issuer of such refunding issue was created under State law at least 20 years prior to the issuance of such refunding bonds for the express purpose of promoting economic development, and

(iv) any debt service savings derived from the refunding may be used only for the proper corporate purposes of the issuer and shall not be used to reduce any existing obligations of any person who is not an exempt person (within the meaning of paragraph (3))."

By Mr. ARMSTRONG:

S. 2741. A bill to designate national forest lands in the State of Colorado as units of the national wilderness preservation system, and for other purposes; to the Committee on Energy and Natural Resources.

COLORADO WILDERNESS LEGISLATION

Mr. ARMSTRONG. Mr. President, President Theodore Roosevelt, a leader of America's conservation movement, declared in 1905 that his goal was not to "lock up" the forests, but to "consider how best to combine use with preservation."

The Colorado Wilderness bill which I am introducing today fulfills these sensible criteria.

After carefully weighing the recommendations and concerns of several hun-

dred knowledgeable Colorado individuals and organizations, I propose to designate an additional 1.228 million acres of wilderness for our State. This acreage, along with 1.25 million acres of existing wilderness, will permit future generations to visit natural areas of breathtaking beauty and variety. Such areas will enrich our national life and hold the promise of what one of my colleagues termed "a great refreshment of the spirit."

In some respects, my bill is similar to legislation already adopted by the House and to legislation introduced by Senator HART. But in a number of significant respects, my bill comes much closer to providing for both use and preservation of public lands, as Teddy Roosevelt recommended.

I have prepared a detailed analysis of the wilderness and nonwilderness values which I have taken into account in this legislation, including specific reasons why some areas designated in other bills are excluded in my bill and, in turn, why other areas have been included.

The section-by-section analysis also discusses nonboundary issues which, in my opinion, are even more crucial.

However, I can briefly point out some of the main differences between my bill and other pending Colorado wilderness legislation:

RELEASE LANGUAGE

Each of the pending bills designates certain areas to become statutory wilderness areas. But my bill clearly spells out what will become of the more than 4.8 million acres of Colorado land which were studied but not designated.

There is general agreement—unanimous agreement among the affected members of the Colorado congressional delegation—that the lands not designated should be released; that is, returned to multiple-use management.

Some people have the mistaken idea that "release" means ending Federal protection of the affected lands. Nothing could be further from the truth. Multiple-use management permits a broader range of uses—such as timbering, mining, recreation, et cetera—under Federal supervision. But all the regular Federal, State, and local environmental laws and standards continue in effect.

In any event, the general—I stress not unanimous—agreement about the need for release does not include agreement about how to accomplish this policy.

The obvious way to do so is to include release language in the wilderness bill itself. I am supported in this recommendation by leading Colorado organizations, including Colorado Resource Consortium, Club Twenty (an organization of Western Colorado counties), Colorado Association of Commerce and Industry, Colorado Farm Bureau, National Forest Products Association, Outdoors Unlimited, Inc., Colorado Four Wheel Drive Clubs, Colorado Mining Association, Rocky Mountain Oil & Gas Association, various local chambers of commerce, municipalities and individual county governments; also by many of our State's most distinguished individual citizens, including such knowledgeable experts as Wayne Aspinall, former chairman of the House Interior Committee, and former Colorado Governor John Vanderhoof.

Why are so many of Colorado's leaders supporting statutory release language?

For one simple reason:

Without statutory release, millions of Colorado acres may be left in limbo—not really a part of our wilderness areas, but not fully available for multiple use without the possibility of endless haggling with administrators and/or the courts.

Opponents of statutory release make two arguments:

First, they say statutory release is unnecessary. They contend that direction in the committee report will be sufficient. Unfortunately, however, committee report language really leaves the final decision to administrators for whom a committee report is, at best, only advisory. Leaving such an important decision up in the air hardly seems responsible.

Recent court decisions would suggest that to do so would, indeed, be foolhardy. Two legal decisions, handed down since the House adopted its version of wilderness legislation, raise serious doubts about the legal ability of the administration to restore undesignated lands to multiple use even if Congress were willing to trust the discretion of administrators.

There is another argument that opponents of statutory release keep bringing up. They say that whatever the merits, statutory release will not be approved by the House. I have been bluntly warned that powerful and intransigent Representatives will kill the bill if release language is included.

Maybe so.

I doubt it.

The tradition of deferring to Senators and Representatives when the vital interests of their State are threatened is one of the most ancient customs of Congress. I am convinced that a united Colorado delegation would prevail on this issue. Unfortunately, we are not united.

Even so, I will not give up on an issue of such immense importance to Colorado without making an all out effort. I will ask Senators to help me include release language in the bill so that it can be taken to conference with the House. If the Senate fails to do so, there will not even be any basis for discussion of this vital issue in the conference committee, not even any basis for a compromise.

MINERALS

The vast majority of the Colorado RARE II areas (especially those proposed for wilderness) are located in the Colorado Mineral Belt, have a long history of mineral production and have high to extremely high potential for coal, uranium and metals; many also have extremely high oil and gas and/or geothermal potential. Obviously, it is impossible to exclude all areas which have high mineral potential, for this would result in elimination of most RARE II areas from possible wilderness designation.

Therefore, my proposal addresses the mineral issue in two ways. First, it excludes portions of proposed wilderness areas where exploration is in an advanced stage and has actually identified the presence of an ore body or focused on a specific unit that has obviously far higher mineral value. Then, since over 75 percent of the designated wilderness areas in Colorado lie within the Colorado Mineral Belt and since over 30 percent of the mineral belt will be wilderness following passage of the current legislation, my bill also extends the 1984 mineral exploration deadline provided in the Wilderness Act of 1964.

GRAZING

My bill also tries to balance boundary adjustments versus statutory language in the treatment of grazing. Rather than exclude all grazing allotments from wilderness (which some have argued is essential to protect ranchers' needs for occasional vehicle access, occasional use of mechanized equipment and freedom from sometimes arbitrary policy enforcement) I recommend both minor boundary modifications and statutory language to insure reasonable access.

Testimony before the Senate Committee and the report of the House Committee underscores the failure of the administration to follow repeated direction of committee reports and the resulting need for statutory language (a point proponents of committee report release language might well consider).

FIRE, DISEASE AND INSECT CONTROL

My bill directs the Forest Service and National Park Service to review their present policy of leaving largely unchecked forest fires and outbreaks of disease and insects in wilderness areas. For reasons discussed more fully elsewhere, this policy is seriously questioned for its effect on the wilderness areas. In addition, such outbreaks are not always confined to Federal property and frequently threaten adjacent private land. For example, a fire was permitted to burn for several weeks in Rocky Mountain Park a few years ago. Suddenly the wind changed, fanned the flames and the little town of Allenspark, nearby, was seriously threatened. At the very least, such a policy ought to be reconsidered.

TIMBER

In some areas, my bill proposes wilderness despite high timber value. Viewed in isolation, such decisions might seem arbitrary. However, other factors must be considered as bearing on each decision.

In some cases, the wilderness values might be judged to be significantly higher. In others, the timber industry may have felt that certain areas are far more important than others, and boundary modifications in other proposed wilderness areas in the same geographical vicinity are made to insure that adequate timber supplies will be available, so that sawmills will not have to lay off workers or close. Moreover, my proposal statutorily releases nondesignated RARE II study areas to the normal land management planning process and thus provides a greater degree of business certainty and a greater ability to plan long-term timber sale contracts than was possible during RARE II or would be possible in the absence of release language.

I recognize that 10 sawmills were closed and hundreds of sawmill employees were laid off during the last few years, primarily because so much national forest land was involved in RARE II and was therefore unavailable to keep the State's sawmills operating. Companies have had to compete for a smaller timber base or go such long distances for timber supplies that their operations became uneconomical. An important part of an essentially diversified local economy is removed when this happens; jobs and productive capacity are lost; the Nation has been forced to turn to imports for one-fourth of the Nation's softwood production; and, consumer prices for lumber have skyrocketed.

BUFFER ZONES

Several Coloradans have expressed a concern that the Forest Service and Bureau of Land Management may be applying a policy, also suggested by at least one Federal court case, that certain facilities or activities cannot be permitted near a designated wilderness area, for fear the facility or activity can be seen or heard from within the wilderness. Such policies, of course create a "protective perimeter" or "buffer zone" around each wilderness area and, in effect, lead to the creation of a much larger de facto wilderness system. My bill repudiates this "sights and sound doctrine."

BOUNDARY DIFFERENCES

In total acreage, my bill closely parallels the House; however, I am recommending two wilderness areas not included in the House bill and have proposed reductions in several of the House areas. In many cases, these minor boundary changes are the result of having later and better information about the existence of roads, mining activity, water development, etc.

I am indebted to my staff for a thorough and painstaking evaluation of literally thousands of pages of testimony, maps, letters, and other information and for their faithfulness in accommodating existing nonconforming uses wherever possible in recommending designation of wilderness areas.

I am also grateful to the individuals and interest groups who have been extraordinarily generous with their counsel and advice. Although there has been much emotion in the drawn out consideration of RARE II, I am impressed by the diligence and scholarship of preservationists, ranchers, business firms, community groups and others who have given me the benefit of their advice.

RECOMMENDED PROCEDURE

I did not originally intend to introduce a separate wilderness bill. I had hoped, and until a few days ago expected, that the entire Colorado delegation would support a single proposal. Perhaps this will still be possible.

However, since other Members are eager to proceed with their own bills and unwilling to agree to satisfactory resolution of major issues, I am constrained now to introduce my own bill.

However, I do not intend to push for passage of my bill. I have introduced it as a point of reference for the committee and other Senators with the expectation that the bill already passed by the House will be used as a vehicle for amendments.

I trust my colleagues will see the wisdom of the amendments which I propose and that the House bill can be suitably amended.

Mr. President, I ask unanimous consent that the text of the bill, together with a table entitled "Colorado RARE II, Summary of Wilderness Proposals," an analysis of the bill and other descriptive material be printed at this point in the RECORD.

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

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 "Colorado National Forest Wilderness Act of 1980."

CONGRESSIONAL FINDINGS AND INTENT

SEC. 2. (a) The Congress finds that—

(1) many areas of undeveloped public lands in Colorado possess outstanding natural characteristics giving them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) review and evaluation of roadless and undeveloped lands in the National Forest System in Colorado have identified those areas which, on the basis of their landform, ecosystem, associated wildlife and location, will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System; and

(3) review and evaluation of roadless and undeveloped lands in the National Forest System in Colorado have also identified those areas which possess outstanding energy, mineral, timber, grazing, recreation and other values and which should be available for multiple uses other than wilderness.

(b) The purposes of the Act are to—

(1) designate certain National Forest System lands in Colorado for inclusion in the National Wilderness Preservation System, in order to promote, perpetuate and preserve the wilderness character of the land, protect watersheds and wildlife habitat, preserve scenic and historic resources and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation;

(2) insure that certain other National Forest System lands in Colorado be promptly available for nonwilderness uses including, but not limited to, campground and other recreation site development, timber harvesting, intensive range management, energy and mineral exploration and production, and watershed and vegetation manipulation, in accordance with the general land use and environmental laws and regulations of the United States and the State of Colorado; and

(3) insure that wilderness designation does not foreclose to the people of Colorado and the United States opportunities for locating, developing and producing any critically needed resources that may be present in lands designated as wilderness within the State of Colorado, in a timely and environmentally sound manner.

WILDERNESS

SEC. 3. (a) In furtherance of the purposes of the Wilderness Act of 1964 and in accord with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the following lands in the State of Colorado, comprising approximately 1,228,000 acres and as generally depicted on maps appropriately referenced dated May 1980, are hereby designated as wilderness and, therefore, as additions to the National Wilderness Preservation System—

(1) Certain lands in the Roosevelt National Forest, comprising approximately 9,400 acres, as generally depicted on a map entitled "Cache La Poudre Wilderness Proposal," dated May 1980, which shall be known as the Cache La Poudre Wilderness Area: *Provided,* That this Act shall not affect in any way any existing right, any existing conditional right, or any existing claim of right or conditional right, to the use of water by the Cities of Greeley and Fort Collins for the Gray Mountain-Idylwilde Water Development Project, nor shall it affect in any way the construction, operation, maintenance or repair of such Project;

(2) certain lands in the Gunnison, San Isabel, and White River National Forests, comprising approximately 154,000 acres, as generally depicted on a map entitled "Collegiate Mountains Wilderness Proposal," dated May 1980, which shall be known as the Collegiate Mountains Wilderness Area;

(3) certain lands in the Roosevelt National Forest, comprising approximately 59,500 acres, as generally depicted on a map entitled "Comanche Peak Wilderness Proposal," dated May 1980, which shall be known as the Comanche Peak Wilderness Area: *Provided,* That this Act shall not affect in any way any existing right, any existing conditional right, or any existing claim of right or conditional right, to the use of water by the Cities of Greeley and Fort Collins for the Gray Mountain-Idylwilde Water Development Project, nor shall it affect in any way the construction, operation, maintenance or repair of such Project;

(4) certain lands in the White River National Forest, comprising approximately 97,000 acres, as generally depicted on a map entitled "Holy Cross Wilderness Proposal," dated May 1980, which shall be known as the Holy Cross Wilderness Area: *Provided,* That no right, or right of claim of right, to the diversion and use of existing conditional water rights for the Homestake Water Development project by the cities of Aurora and Colorado Springs, shall be prejudiced, expanded, diminished, altered, or affected by this Act. Nothing in this Act shall be construed to expand, abate, impair, impede or interfere with the construction, maintenance or repair of said project, nor the operation thereof, or any exchange or modification of the same agreed to by the cities and the United States, acting through any appropriate agency thereof;

(5) certain lands in the Gunnison and Rio Grande National Forests, comprising approximately 60,000 acres, as generally depicted on a map entitled "La Garita Wilderness Additions—Proposal," dated May 1980, which are incorporated in and shall be a part of the La Garita Wilderness Area, as designated by Public Law 88-577;

(6) certain lands in the San Juan and Uncompahgre National Forests, comprising approximately 38,000 acres, as generally depicted on a map entitled "Lizard Head Wilderness Proposal," dated May 1980, which shall be known as the Lizard Head Wilderness Area;

(7) certain lands in the Pike National Forest, comprising approximately 71,000 acres, as generally depicted on a map entitled "Lost Creek Wilderness Proposal," dated May 1980, which shall be known as the Lost Creek Wilderness Area: *Provided,* That this Act shall not affect in any way any existing right, any existing conditional right, or any existing claim of right or conditional right, to the use of water by the Denver Water Board for future water development projects, nor shall it affect in any way the construction, operation, maintenance or repair of such project;

(8) certain lands in the Gunnison and White River National Forests, comprising approximately 85,000 acres, as generally depicted on a map entitled "Maroon Bells-Snowmass Wilderness Additions—Proposals," dated May 1980, which are incorporated in and shall be part of the Maroon Bells-Snowmass Wilderness Area, as designated by Public Law 88–577;

(9) certain lands in the Pike National Forest, comprising approximately 74,000 acres, as generally depicted on a map entitled "Mount Evans Wilderness Proposal," dated May 1980, which shall be known as the Mount Evans Wilderness Area;

(10) certain lands in the San Isabel National Forest, comprising approximately 26,000 acres, as generally depicted on a map entitled "Hunter-Fryingpan Wilderness Additions—Proposal," dated May 1980, which shall be known as the Mount Massive Wilderness Area;

(11) certain lands in the Uncompahgre National Forest, comprising approximately 16,200 acres, as generally depicted on a map entitled "Mount Sneffels Wilderness Proposal," dated May 1980, which shall be known as the Mount Sneffels Wilderness Area:

(12) certain lands in the Routt National Forest, comprising approximately 42,500 acres, as generally depicted on a map entitled "Mount Zirkel Wilderness Additions—Proposal," dated May 1980, which shall be known as the Mount Zirkel Wilderness Area; *Provided*, That this Act shall not affect in any way any existing right, any existing conditional right, or any existing claim of right or conditional right, to the use of water by the City of Steamboat Springs for future water development projects, nor shall it affect in any way the construction, operation, maintenance or repair of such project;

(13) certain lands in the Roosevelt National Forest, comprising approximately 9,900 acres, as generally depicted on a map entitled "Neota Wilderness Proposal," dated May 1980, which shall be known as the Neota Wilderness Area;

(14) certain lands in the Arapahoe National Forest, comprising approximately 10,000 acres, as generally depicted on a map entitled "Never Summer Wilderness Proposal," dated May 1980, which shall be known as the Never Summer Wilderness Area;

(15) certain lands in the Gunnison and White River National Forest, comprising approximately 61,100 acres, as generally depicted on a map entitled "Raggeds Wilderness Proposal," dated May 1980, which shall be known as the Raggeds Wilderness Area;

(16) certain lands in the Roosevelt and Routt National Forests, comprising approximately 48,900 acres, as generally depicted on a map entitled "Rawah Wilderness Additions—Proposal," dated May 1980, which are incorporated in and shall be a part of the Rawah Wilderness Area, as designated by Public Law 88–577: *Provided*, That the Secretary shall permit motorized access and the use of motorized equipment used for the periodic maintenance and repair of the McGuire Water Transmission Line ditch;

(17) certain lands in the San Juan National Forest, comprising approximately 75,000 acres, as generally depicted on a map entitled "South San Juan Wilderness Proposal," dated May 1980, which shall be known as the South San Juan Wilderness Area;

(18) certain lands in the Arapahoe National Forest, comprising approximately 9,500 acres, as generally depicted on a map entitled "St. Louis Peak Wilderness Proposal," dated May 1980: *Provided*, That this Act shall not affect in any way any existing right, any existing conditional right, or any existing claim of right or conditional right, to the use of water by the City of Denver for the Darling Creek portion of the Williams Fork Water Diversion Project, or the Vasquez Creek Reservoir Project, nor shall it affect it any way the construction, operation, maintenance, or repair of such Project;

(19) certain lands in the Uncompahgre National Forest, comprising approximately 96,000 acres, as generally depicted on a map entitled "Uncompahgre Wilderness Proposal," dated May 1930, which shall be known as the Uncompahgre Wilderness Area;

(20) certain lands in the Rio Grande and San Juan National Forests, comprising approximately 66,000 acres, as generally depicted on a map entitled "Weminuche Wilderness Additions—Proposal," dated May 1980, which are incorporated in and shall be a part of the Weminuche Wilderness Area, as designated by Public Law 93–632; and

(21) certain lands in the Gunnison National Forest, comprising approximately 119,000 acres, as generally depicted on a map entitled "West Elk Wilderness Additions—Proposal," dated May 1980, which are incorporated in and shall be part of the West Elk Wilderness Area, as designated by Public Law 88–577.

(b) The previous classification of the Uncompahgre Primitive Area and the Wilson Mountains Primitive Area are repealed.

SPECIAL STUDY

SEC. 4. (a) The Secretary of the Interior and the Secretary of Agriculture shall review jointly the Wheeler Geologic Study Area consisting of approximately 11,000 acres in the Gunnison National Forest, as generally depicted on a map entitled "Wheeler Geologic Study Area Proposal," dated May 1980, and within two years following the date of enactment of this Act shall report to the President and to Congress their recommendations for management of the lands in such study area.

(b) In making such review and report, the Secretaries shall consider—

(1) the natural, historical, cultural, scenic, economic, educational, scientific, energy, mineral and geological values of the study area;

(2) the management and protection of fragile geologic resources within the area;

(3) possible land management options or designations, including national park, monument or national recreation area designation, addition to the wilderness system, special administrative designations, and management under the general laws and regulations applicable to the National Forest System;

(4) the effect of possible land management options on consumers, national security, and national, State and local economies, including: timber harvest, tourism, grazing, energy, water, mineral, and other commercial activities;

(5) the need for additional mineral exploration in such area; and

(6) the suitability and desirability of permanent or temporary road or other mechanized access to the study area.

ALLOCATION OF NON-DESIGNATED AREAS

SEC. 5. (a) Notwithstanding any other provision of law, with respect to lands within the National Forest System in Colorado which have been studied as part of the Secretary of Agriculture's Roadless Area Review and Evaluation Program (RARE II) and which are not identified by the Secretary for further planning, not designated as wilderness by section 3 of this Act, or not included in the special study area by section 4 of this Act—

(1) Congress does not intend to designate any of these lands for inclusion in the National Wilderness Preservation System;

(2) these lands shall continue to be available for uses other than wilderness under the existing Forest Service plans applicable to the national forest within which such lands are located, or under such plans as amended or hereafter modified; and

(3) no department or agency of the United States shall study these lands for the single purpose of determining their suitability or non-suitability for inclusion in the National Wilderness Preservation System.

(b) Nothing in the land management planning process required by section 6 of the National Forest Management Act of 1976 (16 U.S.C. 1604) shall be deemed to preclude multiple use management for uses other than wilderness on any land subject to such planning process.

(c) The enactment of this legislation shall be conclusive as to the legal and factual sufficiency of the environmental impact statement prepared relative to RARE II with respect to National Forest System lands in the State of Colorado and no court shall have jurisdiction to consider questions respecting the sufficiency of such statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321–61).

EXTENSION OF MINERALS DEADLINE

SEC. 6. In order that the nation's needs for energy, metals and other minerals will be met in a timely and environmentally sound manner—

(a) for those national forest lands within the State of Colorado designated as wilderness on or before December 31, 1979, the provisions of Section 4(d)(3) of the Wilderness Act of 1964, and the rights granted thereunder, shall remain valid and in force until midnight, December 31, 1993;

(b) for those national forest lands within the State of Colorado designated as wilderness by this Act, the provisions of Section 4(d)(3) of the Wilderness Act of 1964 and the rights granted thereunder, shall remain valid and in force for a period of 20 years from the date of enactment of this Act; and

(c) for all national forest lands undergoing wilderness study in the State of Colorado, including those RARE II lands allocated to further planning by Executive Communication 1504, Ninety-Sixth Congress, reasonable rights of access shall be granted for ground and air equipment customarily used by reasonable and prudent operators in performing oil, gas, hardrock and other mineral exploration, development and production activities.

GRAZING

SEC. 7. (a) This section applies to all areas designated as units of the National Wilderness Preservation System in national forests within the State of Colorado.

(b) There shall be no curtailments of grazing in wilderness areas for the single reason that an area has been designated as wilderness, nor shall wilderness designation be used as a rationale for phased reduction of grazing uses.

(c) Notwithstanding any other provision of this Act or the Wilderness Act of 1964, where grazing of livestock is permitted under Section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)), the Secretary shall, by reasonable regulation—

(1) permit the occasional use of motor vehicles and motorized equipment for the purposes of responding in emergencies, attending to livestock and maintaining facilities, where such uses had occurred prior to an area's designation as wilderness or were established by an agreement between the Forest Service and grazing permittee, entered into prior to the area's designation as wilderness: *Provided*, That prior consent of the land management agency shall not be required in cases of bona fide emergencies involving humans or livestock; and

(2) permit the retention, maintenance, repair and reconstruction of structures, installations, improvements and other facilities, where such facilities were established prior to an area's designation as wilderness or are established by an agreement between the Forest Service and grazing permittee, entered into prior to the area's designation as wilderness.

(d) The replacement or reconstruction of deteriorated facilities or improvements shall not be required to be accomplished using "natural materials," unless the material and labor costs of using natural materials are

such that their use would not impose unreasonable additional costs on grazing permittees.

ACCESS TO INHOLDINGS

SEC. 8. Notwithstanding any other provision of law, and subject to such terms and conditions as the Secretary of Agriculture may prescribe, the Secretary shall provide such access to non-federally owned lands within the boundaries of National Forest System wilderness areas in Colorado as the Secretary deems adequate to secure to the owner the reasonable use and enjoyment thereof: *Provided,* That such owner shall comply with rules and regulations applicable to access across the National Forest System.

FIRE, DISEASE AND INSECT CONTROL

SEC. 9. The Secretary of Agriculture is directed to review all policies, practices, and regulations of the Department of Agriculture regarding disease or insect outbreaks, forest fires, "natural burns," and the use of modern suppression methods and equipment in national forest wilderness areas, to insure that:

(a) such policies, practices, and regulations fully conform with and implement the intent of Congress regarding forest fire, disease and inspect control, as such intent is expressed in the Wilderness Act and this Act; and

(b) policies, practices and regulations are developed that will allow timely, efficient fire and insect control, and will protect adjacent Federal, State and private non-wilderness lands from forest fires and disease or insect infestations.

VALID EXISTING RIGHTS

SEC. 10. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas, except that, with respect to any area designated by this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deeemed to be a reference to the effective date of this Act.

BUFFER ZONES

SEC. 11. Congress does not intend that designation of wilderness areas in the State of Colorado lead to the creation of "protective perimeters" or "buffer zones" around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

MAPS

SEC. 12. As soon as practicable after enactment of this Act, maps and legal descriptions of each wilderness area designated by this Act shall be filed by the Secretary of Agriculture with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, United States House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

COLORADO RARE II—SUMMARY OF WILDERNESS PROPOSALS

[All figures are in acres]

Area name	Administration	State of Colorado	House	Hart	Armstrong
Cache la Poudre	9,400	9,400	9,400	9,400	9,400
Collegiate Mountains	193,500	193,500	155,000	193,500	154,000
Comanche Peak	74,000	74,000	59,500	73,100	59,500
Holy Cross	121,400	132,900	101,400	130,600	97,000
La Garita	122,000	72,800	60,000	60,000	60,000
Lizard Head	19,000	19,000	40,000	40,000	38,000
Lost Creek	71,000	71,000	0	71,000	71,000
Maroon Bells	109,100	109,100	101,500	101,500	85,000
Mount Evans	74,000	74,000	74,000	74,000	74,000
Mount Massive	26,700	26,700	26,000	26,000	26,000
Mount Sneffels	16,200	16,200	16,200	16,200	16,200
Mount Zirkel	113,000	76,600	68,800	90,600	42,500
Neota Flattops	9,900	9,900	9,900	9,900	9,900
Never Summer Mountains	14,900	14,900	14,900	26,900	10,000
The Raggeds	61,100	61,100	67,000	71,500	61,100
Rawah	49,200	49,200	48,900	48,900	48,900
South San Juans	134,000	159,500	130,000	157,500	75,000
St. Louis Peak	13,300	13,300	0	13,300	9,500
Uncompahgre	59,500	59,500	100,000	100,000	96,000
Weminuche	66,000	66,000	66,000	66,000	66,000
West Elk	150,000	131,500	130,000	133,500	119,000
Wilderness total	1,507,200	1,440,100	1,278,500	1,513,400	1,228,000
Fossil Ridge study	0	57,000	0	(30,000)	0
Wheeler geol area	0	0	11,000	(50,000)	11,000
Wilderness + wilderness study total	1,507,200	1,497,100	1,289,000	1,593,000	1,239,000

ANALYSIS OF PROVISIONS IN ARMSTRONG WILDERNESS BILL

Section 1. Enactment Clause and Title of Act.

This is a part of all congressional legislation.

Section 2. Statement of Congressional Findings and Intent.

This section explains the purposes of the bill and how Congress has attempted to balance competing interests so that there will be less confusion when questions are inevitably raised at a later date about these decisions.

Section 3. Designation of Wildernesss Area.

This is the heart of the wilderness legislation. This section lists the areas to be designated, notes the acreage involved, and, in several cases, includes special language designed to protect water and water project development rights. The individual areas listed in this section are covered in detail in the attached area-by-area description.

Section 4. Designation of Wheeler Geologic Area as Special Study Area.

The designation of this special study area is in addition to the Forest Service's own "further planning" areas. The Wheeler Geologic Study Area is discussed in greater detail in the analysis of proposed additions to the La Garita Wilderness Area.

Section 5. Release of Nondesignated RARE II Areas.

The linchpin in any sound, balanced RARE II bill is the "release" provision—the section that specifies what is to happen to the lands that were studies (and perhaps even recommended) for wilderness designation but were not designated by Congress.

The Armstrong bill incorporates the release provisions from the Oregon RARE II bill, which was passed by the Senate November 26, 1979. This spells out the intent of Congress for nondesignated lands: (1) those lands shall be administered for multiple uses under the normal land management process; (2) there shall not be a RARE III single purpose wilderness study; and (3) the RARE II environmental impact statement (EIS) is adequate and shall not be reviewable in any federal court of law.

A number of facts, including several recent court decisions, underscore the need for statutory release language.

In *California* v. *Bergland*, a federal district court judge held that a separate EIS must be prepared for each individual RARE II area before the area can be returned to normal land management planning. The effect of this decision, if applied to Colorado as well, would be to prolong the entire RARE II process and prevent the release of non-designated lands, possibly for many years.

Release language is clearly needed to prevent lawsuits like the one in California. But it is also needed to provide some degree of assurance that the Administration will in fact administer as nonwilderness those lands which it recommended for wilderness but which Congress did not designate. The issue is too important to permit us to simply trust statements that this is the government's present intent—particularly when government officials last year said they intended to manage many of these lands to "preserve their wilderness character," prohibiting most nonwilderness uses.

It has been suggested that this dilemma can be adequately handled by language in the committee report or conference report to accompany the Colorado bill. However, such report language is, at best, only advisory in nature and simply does not carry the same weight as a clear statement in law.

Another recent case, *National Small Shipments Traffic Conference Inc.* v. *Civil Aeronautics Board*, emphasizes this fact. In this case, a three judge panel ruled that committee report language was not sufficient, particularly where the report language may conflict with other provisions of existing law. The court went on to say that in the future Congress should rely less on report language and should spell out Congressional intent in the law.

If Congress intends that nondesignated lands be managed under the general multiple use land laws, rather than under single purpose or highly restrictive wilderness policies, it should say so. Rather than leave the issue in doubt, Congress could and should say so. Rather than leave the issue in doubt, Concould and should enact a clear statutory directive by putting release language in the bill.

Some individuals have steadfastly opposed release language because, they claim, release would give industry, "carte blanche privileges" to develop as it sees fit, and the lands and wildlife would be "destroyed."

However, wilderness designation is not the only method available to "protect" the lands, wildlife and environment, even in fragile areas. Nonwilderness or multiple use man-

agement does not mean an absence of federal, state and local environmental laws, regulations and standards, as some seem to believe.

Moreover, even if all the nondesignated RARE II lands are returned to nonwilderness management, very little of the land would ever be impacted by development. Many areas will never be affected by a development proposal at all. And in those areas where development does take place, only a small percentage of the total land base will be involved.

Neither mining nor timber cutting—the operations most frequently listed as causing the "destruction" of wilderness values—are conducted the way they were 100, 50 or even 10 years ago. Clear cutting is rarely used today in our national forests, no longer affects large tracts of land, is followed by reseeding, and is essential for providing browse areas for deer, elk and other wildlife.

In fact, the very lands we are now considering for wilderness designation were managed for multiple uses for years. Some were roaded, timbered and mined for decades, but multiple use management restored them to their former natural state. The very fact that these lands still meet the statutory definition of "wilderness" attests to the wisdom of multiple use management, the adequacy of our general land and environmental laws, and the respect and love which Coloradoans have for their state.

Quite obviously, release lands will still be available for wilderness study and designation decades from now, if a future Congress determines that still more wilderness is needed. But in the meantime, nondesignated lands should not be managed by the executive agencies as though Congress had designated them as wilderness.

Finally, what must not be overlooked is that it is *people* who benefit from sound, multiple use management: people who need jobs, a solid tax and economic base, opportunities for motorized and family-style recreation, and energy, raw materials for consumer products, lumber for homes and meat for their tables, at prices they can afford.

Section 6. Extension of 1984 Deadline for Mineral Exploration in Wilderness Areas.

Another critical issue involves an extension of the current 1984 deadline for staking claims, acquiring leases, exploring for energy and other minerals, and developing deposits in wilderness areas. The Armstrong bill extends this deadline to 1994 for existing wilderness areas and to the year 2000 for areas designated by the bill. This issue is especially important in Colorado, because so many of the state's wilderness and wilderness study areas lie in the heart of what is known as the Colorado Mineral Belt.

This highly mineralized region is unique in all the world for the quality and extent of molybdenum and precious metal deposits, and is extremely valuable for uranium and rare earth elements, as well. In view of the nation's growing need for these minerals, it seems reasonable to extend the 1984 deadline.

Recent congressional, Interior Department, academic and industry studies indicate that over 75 percent of the public land in the United States (over 550 million acres) has been closed or severely restricted to the search for energy and critically needed minerals, as a result of wilderness, national park and monument, wildlife refuge, endangered species habitat and other highly restrictive land use classifications.

Within Colorado, nearly all of the existing wilderness areas and three-fourths of the RARE II wilderness study areas are located within the Colorado Mineral Belt; over 30 percent of the Mineral Belt is overlain by existing or congressionally-endorsed wilderness areas.

Many of the minerals present in the Colorado Mineral Belt are vital for national defense and developing technologies, such as energy. For example, cesium is vital in the manufacture of photovoltaic cells (to produce electricity from light), thermionic power conversion equipment and "snooperscopes"; cesium-bearing minerals have been found in several Colorado counties. Another Colorado metal, titanium, is essential in the manufacture of powerplants, aircraft and guided missiles.

As demand for these minerals increases, renewed exploration efforts, using modern theories and technology, will have to re-evaluate many previously explored areas so that important, but widely scattered, deposits can be found. (On the average, only one mineral prospect in 100,000 becomes a producing mine.)

The exploratory work needed to locate commercial deposits can now be done in such a way that literally no evidence remains after only 2–3 years, even in the arid West. Photographs presented to the Senate Energy and Natural Resources Committee on March 13 of this year clearly demonstrated this.

These exploration efforts will probably focus on areas like the West Elk and Mount Zirkel wilderness areas, which are known to be highly mineralized but which have never been evaluated by modern methods. To illustrate the mineralization in some of these areas, the entire northern half of the proposed West Elk additions has extensive reserves of high grade, low sulphur bituminous coal; the uranium potential in southeastern and southwestern areas is extremely high; other parts of the existing and proposed wilderness have high to extremely high potential for molybdenum and also for tungsten, fluorine, gold, tin, bismuth, copper, silver and zinc, as well as potential for cesium and titanium.

If we close these areas now, we may well foreclose many alternative energy and other technological options. Extension of mineral exploration language is clearly needed.

Section 7. Special Language to Protect Grazing Interests.

The Armstrong bill contains provisions detailing general grazing practices permissible in wilderness areas. Statutory language is essential to eliminate the present confusion which exists among federal agencies about what is, and what is not, permissible grazing activities.

Colorado's cattle industry argues (echoed in part by wilderness groups) that the Department of Agriculture is too inflexible in its policies toward grazing in wilderness area, that there is a lack of uniform grazing policies and regulations and that these haphazard policies are arbitrarily enforced. As a result, grazing in wilderness areas has declined; this is in spite of Wilderness Act provisions designating grazing as a legitimate wilderness use.

The House bill contains no statutory language. Since its passage, however, the Department of Agriculture has twice changed its position about the necessity of statutory language. As a result, both House sponsors of the legislation are reviewing this issue.

In light of past problems, the historical acceptance of grazing as a legitimate wilderness practice, the present problems the Department of Agriculture has had interpreting congressional intent and the contribution that ranching makes to the Colorado economy, statutory grazing language is reasonable and essential. Committee report language simply does not adequately solve the problems; there is substantial question whether it, in fact, contradicts the Wilderness Act. This question can be resolved only by statutory language.

The Armstrong statutory language permits reasonable and prudent use of motorized vehicles and equipment by ranchers in wilderness areas and allows ranchers to replace or reconstruct deteriorated facilities in an economical manner.

Section 8. Access to Inholdings.

Past and current wilderness decisions by Congress have placed much privately owned land (mining claims, cabins, stockponds, fences and so on), as well as many Colorado school sections (1 mile square sections of land given by the federal government to state and county school districts to provide money for school purposes), within designated wilderness areas. These areas of privately owned land are commonly known as inholdings. Unless special statutory language is provided in the bill, the owners of these lands may be denied access to their property except by foot or horseback, even if they have to haul groceries or fence posts miles.

The purpose of this section in the Armstrong bill is to make Congress' intent clear that access to these areas is not precluded by reason of wilderness designation. Obviously, it is impossible for Congress, using outdated and incomplete topographic maps, to know the location of all these privately owned inholdings within wilderness areas, at the time it passes new wilderness legislation. Therefore, inclusion of language like this is essential to protect important private property rights.

Section 9. Fire, Disease and Insect Control.

In recent years, the Forest Service and National Park Service have adopted a policy of letting forest fires burn and insect or disease outbreaks continue largely unchecked in wilderness, park and primitive areas. The policy is defended on the ground that fires and insects are "natural" and are an integral part of a thriving forest ecosystem.

The issue here, then, is whether the Colorado legislation should direct the Forest Service to re-examine its policy and to allow the use of modern mechanized equipment to control outbreaks in wilderness areas under certain circumstances. I believe that it should.

In the first place, I believe it is unwise to attempt to undo 50 years of Smokey the Bear fire prevention policies overnight. Because of past fire prevention activities, much dead timber and brush accumulated in our forests. The fire several years ago in Rocky Mountain National Park vividly illustrates what can now happen when a fire is allowed to burn for weeks, until suddenly the wind picks up and fans the flames. Such fires are anything but "natural"—they are conflagrations.

In the second place, such fires and disease or insect outbreaks do not always confine themselves to wilderness areas. Like the Rocky Mountain National Park fire that almost burned down the little town of Allenspark, they frequently spread far beyond the wilderness boundaries, destroying private land, valuable commercial forest land and other badly needed resources.

Third, it seems a bit paradoxical to designate an area as wilderness, in order to "protect" the lands and wildlife from developers—only to let the area be destroyed by insects, disease or a raging forest fire. Forest fires, in particular, have an often devastating impact on soil, watersheds and wildlife—far more devastating than even a large clear cut or open pit mine. The impact of a fire is magnified greatly by additional policies which discourage or even prohibit active reclamation efforts to reseed and reclaim wilderness areas affected by fires.

Finally, one must ask if it is possible to have scattered "islands" of forest land left in a supposedly "natural" or "primeval" condition, in the midst of a sea of lands managed under modern principles of multiple use. The most likely result will be that, deprived of the natural controls that once existed over them, the outbreaks will spread and recur with unnatural ease and frequency.

Thus, I believe the Forest Service should be directed at least to re-examine its policies, and move more gradually toward a policy of "natural" fire, insect and disease control, and implement policies that will adequately protect privately owned land, commercial forest land and other nonwilderness land.

Section 10. Valid Existing Rights.

This provision might be called boilerplate language, because it has appeared in virtu-

ally every recent wilderness bill. It is designed to give some protection to "valid existing rights" (such as access) and otherwise to make the provisions of the 1964 Wilderness Act applicable to the newly designated wilderness areas.

Section 11. Buffer Zones.

Several Coloradoans have expressed a concern that the Forest Service and Bureau of Land Management might be applying a policy, also suggested by at least one federal court case, that certain facilities or activities can not be permitted near a designated wilderness area, on the ground that the facility or activity can be seen or heard from areas within the wilderness. Such policies, of course, create a "protective perimeter" or "buffer zone" around each wilderness area and, in effect, lead to the creation of a much larger "de facto" wilderness system. This section states that this "sights and sound doctrine" is not consistent with congressional intent.

Section 12. Maps.

This provision merely directs the Forest Service to prepare maps and descriptions of each new wilderness area designated by the act and file them with Congress. It also allows for the correction of clerical or typographical errors.

WILDERNESS AREA NAME: CACHE LA POUDRE

Comparison of wilderness recommendations (acres):

Armstrong	9,400
Hart	9,400
House	9,400
Administration	9,400

General description of area:

This area is located northwest of Fort Collins, along the Cache La Poudre. Its principal features are its open stands of ponderosa pine, interspersed with rock outcrops, and the two major river canyons that border and bisect the area.

Reasons for wilderness recommendation by Armstrong:

With a 71% wilderness values rating by Forest Service, this area was recommended for wilderness by Administration. A highly natural area, with few signs of man, possessing very high scenic qualities and heavily used by residents of Fort Collins area. High elevations result in a fairly dry climate and generally long snow-free season, providing winter feeding ranges for deer; elk, black bear and trout, and occasional eagles, also present. Portion of Cache La Poudre River flowing past this proposed wilderness area recently recommended for wild and scenic river designation.

Explanation of differences from other bills or proposals:

Armstrong proposal includes special language in bill (not included in House or Hart bill) stating that wilderness designation will not affect the possible future construction of Gray Mtn.-Idylwilde Water Project now under discussion as possible means of meeting water and agricultural needs of agricultural communities surrounding Greeley and Fort Collins.

Advocates of Gray Mtn. Project point out that reservoirs this far up Cache La Poudre River, at higher elevation, will save water by cutting evaporation and will also provide relatively cheap electrical power. Exception language does not endorse project, but only permit feasibility study to continue.

Colo Farm Bureau, the Loveland Chamber of Commerce, and Northern Colo Water Conservancy District all support Gray Mtn Project, feeling that studies should continue and not be short-circuited by premature wilderness designation.

WILDERNESS AREA NAME: COLLEGIATE MOUNTAINS WILDERNESS

Comparison of wilderness recommendations (acres):

Armstrong	154,000
Hart	193,000
House	155,000
Administration	193,500

General description of area:

Southeast of Aspen, this area has rugged mountain peaks (ten over 14,000'), many scenic attractions, with mineral potential among the highest of any area in Colorado (with many mines). Streams, lakes and vegetation below timberlines support wide variety of wildlife and add to area's high popularity for wilderness and nonwilderness recreation.

Reasons for wilderness recommendation by Armstrong:

This area received very high Forest Service wilderness rating and was recommended for wilderness by Administration. This is one of the largest continuous areas in U.S. above timberline and contains excellent alpine ecosystem, with much tundra. The area also has mtn goats, bighorn sheep, bald eagles, beaver, elk, deer, bear and mtn lion. This is a high use area for hiking, mtn climbing and cross-country skiing and the new Continental Divide Trail will run the length of the Collegiate Area when completed.

Explanation of differences from other bills or proposals:

The primary area at issue is a large section in the north/central part of the total area recommended by the Administration. This north/central area is excluded in the Armstrong and House bills and is included in the Hart bill. The area in question has high mineral potential for molybdenum, gold, silver, lead, zinc, tungsten and fluorine. Amoco minerals has identified three molybdenum prospects (each with a potential for 200 million tons of ore) and estimates the gross value for all three prospects at $6 billion. Thus there is high potential for increased employment opportunities and support for local economies. Exploration and mining activity has been underway for some time (small and large companies) and both patented mining claims and old mine sites are scattered throughout the area.

A small area on the eastern flank of the Collegiate's is also excluded in the Armstrong and House bills (included in the Hart bill) to protect existing grazing improvements. From time to time, it will be necessary to use motorized equipment to make repairs or improvements to a ditch and use of such equipment would be precluded if the area is in a wilderness designation.

The small differences between the Armstrong bill and the House bill are due to additional modifications made in the Armstrong bill for mining or mineral potential.

WILDERNESS AREA NAME: COMANCHE PEAK WILDERNESS

Comparison of wilderness recommendations (acres):

Armstrong	59,500
Hart	73,100
House	59,500
Administration	74,000

General description of area:

A high, rolling plateau area containing lodgepole pine and spruce fir forests, located along northern boundary of Rocky Mountain National Park. The Mummy Range and part of Cache La Poudre River run through area; many lakes, several other drainages, and many species of fish and wildlife are present in area.

Reasons for wilderness recommendation by Armstrong:

Terrain and vegetation highly diverse, making area highly scenic. Abundant wildlife is present, including elk, deer, black bear, and bighorn sheep; gold eagles and peregrine falcons have been observed. Species of trout (including threatened greenback cutthroat trout) in lakes and streams. Area receives much use for hiking, backpacking and cross-country skiing by visitors to Rocky Mountain National Park and residents of Fort Collins area.

Explanation of differences from other bills or proposals:

The total area at issue includes two parts: an area to the north of Rocky Mountain National Park and an area on the eastern edge of Rocky Mountain National Park.

The Armstrong and House bills exclude the eastern area, which is included in the Hart bill. A proposed county road would cut through this area. In addition, the eastern area has old homestead buildings, remains of a sawmill, wagon road, stumpage from past timber harvests and other features which preclude a natural or "pristine" character.

The Armstrong and House bills exclude some areas which are sites for potential City of Fort Collins water projects. Also, both bills exclude several square miles of private property.

The northern part of the Comanche Peak area does have considerable softwood timber of interest to sawmills in Walden and Kremmling. This is left in the Armstrong bill (as in the House and Hart bills) but is compensated for in the Armstrong proposal by making boundary adjustments in other nearby areas (see Mount Zirkel discussion) to protect jobs.

WILDERNESS AREA NAME: HOLY CROSS WILDERNESS

Comparison of wilderness recommendations (acres):

Armstrong	97,000
Hart	130,600
House	101,400
Administration	121,400

General description of area:

Near Vail, this area is directly south of the Beaver Creek ski area; 14,000 ft. Mount of the Holy Cross dominates. Many permanent snow fields, lakes, waterfalls and several very deep gorges are here, as well as several areas with very high mineral and timber potential.

Reasons for wilderness recommendation by Armstrong:

Portions of Holy Cross are ranked third by the Forest Service for wilderness values, out of all RARE II areas in the United States. Backpacking and cross-country skiing have increased markedly during last few years, and several areas on east flank of area are heavily used for picnics and day hikes. Wildlife (mammals, birds, fish, big game) and scenic values are extremely high, and several important winter feeding and spring calving areas for elk and deer are present. Area also contains a large variety of ecosystems, from tundra to forest and meadow to stream bottom lands.

Explanation of differences from other bills or proposals:

The Armstrong proposal would include the overwhelming majority of Holy Cross areas recommended by others for wilderness designation. Exceptions are made for the Holy Cross City area on the east flank, the Timberline Lake area on the south, and commercial timber lands on the north and east sides.

The area west of Holy Cross City (excluded in Armstrong/included in House and Hart bill has a well-used jeep trail and is very highly mineralized (gold, silver, lead,

zinc, molybdenum, uranium). The Armstrong proposal would protect the mining claims, currently valued at several million dollars, with a potential for several hundred permanent jobs involving several of the multimillion dollar deposits indicated by existing data.

Extremely high mineral potential (molybdenum, copper, tin, uranium, tungsten) in the Timberline Lake area would be protected by the Armstrong proposal. This area is included in the House and Hart bills.

The Holy Cross area has the highest timber values of all RARE II areas in Colo., of critical importance to Montrose and Eagle sawmills. The Armstrong and House boundary modifications on north and east sides of the proposed wilderness protect these values and reflect fact that sawmill at Eagle recently reduced its workforce from 134 employees down to 28 because the Forest Service has not made adequate timber supplies available. Senator Hart's bill includes these areas in his wilderness proposal.

All three bills (Armstrong, House, Hart) contain language to protect features of the Aurora and Colorado Springs Homestake Water Project, which fall within the boundaries of the proposed wilderness area. The House and Armstrong bill language also allow slight deviations from the project plan if geologic or technical reasons require. The language in the Hart bill does not appear to permit this.

Public Service Company of Colorado has expressed a concern that a portion of the southern border of the Holy Cross area will affect a power line right-of-way which is outside the proposed wilderness area. The Armstrong and House bills adjust the wilderness boundary to provide a 1,000 ft. setback from the center line of the power right-of-way.

The proposed wilderness area boundary in the Hart bill overlaps a part of the Beaver Creek Winter Sports Area. This is not included in the Armstrong and House bills.

WILDERNESS AREA NAME: LA GARITA WILDERNESS ADDITIONS AND WHEELER GEOLOGIC STUDY AREA

Comparison of wilderness recommendations (acres):

Armstrong, 60,000 (plus 11,000 acre Wheeler Geologic Study Area).

Hart, 60,000 (plus 50,000 acre Wheeler Geologic Study Area).

House, 60,000 (plus 11,000 acre Wheeler Geologic Study Area).

Administration, 122,000 (includes entire Wheeler-Wasson Area).

General description of area:

North of Creede, this area is generally mountainous, with many U-shaped valleys and trout streams, both north and south of Continental Divide. One-fourth of the area is above timberline, with the remainder covered with spruce, aspen and open park land. Parts of the area have very high sawtimber, mineral and grazing value.

Reasons for wilderness recommendation by Armstrong:

The area included in the Armstrong proposal is highly scenic, received a high wilderness rating from the Forest Service, and enjoys increasing popularity for wilderness-style recreation. Middle Fork and Mineral Mtn. are important lower elevation areas for big game species, including elk and deer; the area provides excellent habitat for bighorn sheep, elk, bald and golden eagles, and many other species.

Explanation of differences from other bills or proposals:

None of three bills (Armstrong, Hart, or House) include total acreage recommended by Administration; the legislation does not incorporate the entire Wheeler-Wasson Area because testimony in the past has been overwhelmingly negative on the idea of including Wheeler-Wasson in wilderness (in order to provide convenient access to the Geologic Area).

The Armstrong and House proposal on Wheeler Geologic Area, a sub-unit of Wheeler-Wasson, excludes the important Creed Mining District; the District is one of the richest areas in the entire State of Colo. for gold, silver, lead, zinc, copper, molybdenum and various rare earth elements that will be essential in alternative energy and other developing technologies. The legislation is designed to keep open future U.S. options on these technologies and continued employment and balance-of-trade benefits, which environmentally sound development of these mineral resources can provide.

The Armstrong and House proposal for Wheeler Geologic Study Area also recognizes that motorized access to Wheeler Geologic Monument and to important cattle operations should be kept open and that continued maintenance of the shelter house at monument site is important to visitors.

Armstrong proposals for La Garita Wilderness, Uncompaghre Wilderness, and Weminuche Wilderness additions (all of which conform in acreage with the House and Hart proposals) are based on the assumption that local economies, grazing interests, and employment and timber needs will be addressed by special provisions in the Armstrong RARE II bill for releasing non-designated RARE II study lands, protecting ranching interests and extending mineral exploration deadline contained in the Wilderness Act; release will protect employment at Monte Vista and South Fork sawmills by putting certainty into timber sales, allowable cutting levels, and sustained yield management practices.

WILDERNESS AREA NAME: LIZARD HEAD (WILSON MOUNTAINS) WILDERNESS

Comparison of wilderness recommendations (acres):

Armstrong	38,000
Hart	40,000
House	40,000
Administration	19,000

(does not include original primitive area)

General description of area:

This area is located north of Durango in San Miguel County. The entire area has an elevation of about 10,000 ft. Generally steep terrain is characterized by benches, ridges, narrow drainages and several high peaks. The area contains numerous mineral, grazing, recreation and timber resources; there is much local opposition to wilderness.

Reasons for wilderness recomendation by Armstrong:

Area is very primitive in character and has very high wildlife and scenic values. Elk, deer, bighorn sheep, eagles, hawks and other birds inhabit much of the area; many creeks teem with trout. Area is heavily used for hunting and fishing particularly in the summer months. Wilderness groups throughout the states support wilderness designation.

Explanation of differences from other bills or proposals:

The Armstrong proposal contains slightly less acreage than the Hart and House legislation, because it does not place in wilderness the southwestern tip covered by the other bills. This will allow continued use of the Groundhog Livestock Driveway and maintenance of grazing facilities in the region (buttressed by special grazing provisions in the statute). In addition to being important for sheep and cattle grazing, the area receives moderate motorized recreational use during the year.

Forest Service RARE II summary for Lizard Head Area stated that "economics is the key issue for this area" and that the area "contains numerous resources that contribute to locally dependent community."

Forest Service report also notes that gold/silver samples taken from veins in area adjacent to one that is being proopsed for wilderness shows values of up to $900 per ton at last year's prices; geological formations from which these samples were taken extend into proposed wilderness area.

Local county commissioners and many local citizens oppose wilderness; important local economic interests are addressed by the Armstrong bill's provisions for releasing non-designated RARE II lands (in nearby areas) back to the normal land management planning process for vehicular access to grazing lands and for extending the mineral exploration and production deadline under the Wilderness Act.

WILDERNESS AREA NAME: LOST CREEK WILDERNESS

Comparison of wilderness recommendations (acres):

Armstrong	71,000
Hart	71,000
House	0
Administration	71,000

General description of area:

This very scenic area, located southwest of Denver, has steep, rugged slopes and high mtn meadows, many wind and water carved rock formations, diverse forest vegetation and much wildlife. It was established as Lost Creek Scenic Area in 1963 because of its high scenic value.

Reasons for wilderness recommendation by Armstrong:

This area would be one of closest wilderness areas to Denver and Colorado Springs and would receive much use throughout the year. The wildlife values in area include mule, deer and a large and growing herd of bighorn sheep. Scenic values in the area include Lost Creek, unique and picturesque granite formations of spires, pinnacles, balanced rocks and hugh boulders interspersed with stands of trees.

Explanation of differences from other bills or proposals:

The House of Representatives, in consideration of other wilderness alternatives and total wilderness acreage for the state, opted not to include Lost Creek.

The Armstrong decision to include area is based on its obviously high wilderness values and the lack of other major resource conflicts, to a degree not found in many other proposed areas.

The only known conflict is with Denver Water Board water and property rights near the area's eastern boundary; the Water Board may want to use this area sometime in future as reservoir site and as part of its proposed Williams Fork Diversion Project. This possible conflict has been resolved with language specific to the Armstrong proposal (and without deleting any acreage), by including a provision insuring the project may proceed if its need and practicability are demonstrated by an environmental and feasibility study.

WILDERNESS AREA NAME: MAROON BELLS SNOWMASS WILDERNESS ADDITIONS

Comparison of wilderness recommendations (acres):

Armstrong	85,000
Hart	101,500
House	101,500
Administration	109,100

General description of area:

Proposed additions to existing wilderness primarily above timberline and characterized by prominent peaks, well defined drainages, several basins and a wide variety of vegetation and wild life. Additions will become part of 1 million acre wilderness system within 50 miles of Aspen.

Reasons for wilderness recommendation by Armstrong:

Maroon Bells Snowmass is one of Colo-

rado's most popular wilderness areas, and proposed additions received one of highest Forest Service wilderness ratings in the entire state. Parts of area are heavily used for hiking, backpacking, mountain climbing, cross-country skiing, and educational and research activities by several colleges and laboratories. Area is important habitat for bighorn sheep, elk and wide variety of other wildlife. Vegetation is also highly varied and includes several rare plant species.

Explanation of differences from other bills or proposals:

Long standing nature of this proposal means many conflicts have already been eliminated by boundary adjustments, but mineral conflicts are still significant.

The Armstrong proposal excludes three areas on south side and one on east side of Maroon Bells because of mineral conflicts. Extensive Forest Service, Geological Survey and industry data show high to extremely high potential for gold, silver, manganese, tin, copper, molybdenum, lead, zinc, cadmium, bismuth and other rare metals in these areas. Extensive exploration efforts, using modern techniques and equipment, are currently underway by a number of companies; many parts of these areas contain roads, vehicle trails, mine heads and other structures, and show other signs of human activities conducted before today's environmental laws and regulations were enacted. Armstrong proposal excludes these four highly mineralized areas to insure that the nation's domestic strategic mineral options are not foreclosed by wilderness designation, and to protect the local area's diversified economy and employment opportunities which careful development of these resources would provide. Additional minor boundary adjustments permit access to several mining claims which show high mineral potential.

The Armstrong deletion on the east also has moderate to extremely high geothermal potential (entire Colorado mineral belt has some of highest geothermal potential anywhere in the United States). This boundary adjustment (and extension of Wilderness Act's mineral exploration deadline) protect state, local and national interest in continuing development of this important alternative resource.

Modern laws and regulations covering environmental impact statements, endangered or threatened plant and animal species, exploration and mining practices, water quality, and national forest planning apply whether or not these small areas are included in the wilderness system, and will continue to protect the environmental resources.

WILDERNESS AREA NAME: MOUNT EVANS WILDERNESS AREA

Comparison of wilderness recommendations (acres):

Armstrong	74,000
Hart	74,000
House	74,000
Administration	74,000

General description of area:

This area contains four major drainage basins, with a continuous range of high rocky peaks running from east to west. Its many lakes and streams are well stocked with fish. The Mount Evans area harbors one of the state's largest bighorn sheep herds.

Reasons for wilderness recommendation by Armstrong:

A new Mount Evans Wilderness area would offer the closest wilderness style recreation for Denver area residents. Its large stands of spruce, fir and lodgepole pine, combined with its many tall peaks (8 of which tower over 13,000 feet), make the area highly scenic and draw large numbers of tourists every year. Elk, mountain goats, bighorn sheep and many other species of wildlife inhabit the area.

Explanation of differences from other bills or proposals:

All four proposals (Armstrong, Hart, House and Administration) have the same acreage and follow the same boundaries; all four exclude the access road to the Mount Evans summit, as this road is a main tourist attraction, due to the fact that it is the highest paved road in the United States, and because it provides access to the University of Denver's altitude laboratory and to the famous Crest House, which may be rebuilt in the near future.

The Evergreen Fire Department has expressed a concern that "the proposed area is too close to a populated area, when one considers the restrictions placed upon firefighting forces working within any designated wilderness area." Forest Service policies for wilderness areas have been to allow "natural" fires to burn themselves out. The problem with this approach is that the fires do not always remain small and do not always confine themselves to the wilderness area. A separate part of the Armstrong bill contains language directing the Forest Service to reassess its policies on forest fires in wilderness areas and further directs the Forest Service to revise its policies to protect privately owned land, commercial timber land, and other nonwilderness areas.

WILDERNESS AREA NAME: MOUNT MASSIVE (HUNTER-FRYINGPAN WILDERNESS ADDITIONS)

Comparison of wilderness recommendations (acres):

Armstrong	26,000
Hart	26,000
House	26,000
Administration	26,700

General description or area:

Contiguous to Hunter-Fryingpan Wilderness area. Mostly above timberline and characterized by mountain peaks, well defined drainages and scattered basins. Lower elevations contain many lakes and streams. High potential for hardrock minerals but no current production sites.

Reasons for wilderness recommendation by Armstrong:

Received high Forest Service wilderness rating and was recommended for wilderness by Administration. Much wildlife, including bighorn sheep, mountain goats and many small species. Vegetation ranges from alpine tundra to spruce, fir and lodgepole pine. Excellent hiking and fishing opportunities; most lakes periodically stocked by State Division of Wildlife. Proposal to expand Hunter-Fryingpan Wilderness area essentially is non-controversial.

Explanation of differences from other bills or proposals:

None in acreage: The Armstrong proposal is identical to those of Senator Hart and the House of Representatives.

However, very high uranium and hardrock minerals potential in the existing wilderness area, and proposed additions underline the need to extend the mineral exploration deadline. This approach will help protect the most valuable wilderness resources, while protecting local jobs and economies, consumer and national security needs for energy and other minerals, and the need for developing energy and space age technologies.

WILDERNESS AREA NAME: MOUNT SNEFFELS

Comparison of wilderness recommendations (acres):

Armstrong	16,200
Hart	16,200
House	16,200
Administration	16,200

General description of area:

General mountainous area lying between Ouray and San Miguel Counties. Upper elevations are above timberline and generally covered by alpine meadows and rock-covered slopes; lower elevations predominantly spruce, fir and aspen. Wide variety of wildlife. Several prominent peaks, including Mount Sneffels.

Reasons for wilderness recommendation by Armstrong:

Area is highly favored for wilderness by Colorado wilderness groups according to comment received by Forest Service, which gave area a moderately high wilderness rating. Area receives much non-motorized use (hunting, fishing and hiking) and has few resource conflicts. Wildlife is abundant and includes mule, deer, elk, black bear, bobcat, beaver and a wide variety of birds. Area has some mineral potential, but industry has shown little interest in the area to date.

Explanation of differences from other bills or proposals:

None. Armstrong proposal is identical to others.

WILDERNESS AREA NAME: MOUNT ZIRKEL WILDERNESS ADDITIONS

Comparison of wilderness recommendations (acres):

Armstrong	42,500
Hart	90,600
House	68,800
Administration	113,000

General description of area:

The topography is highly varied in this area and is dotted with many small lakes, marshy areas and streams. The vegetative cover and wildlife are also highly varied. Many resource conflicts have created strong local and regional opposition to large scale wilderness additions here.

Reasons for wilderness recommendation by Armstrong:

The area proposed for wilderness designation by the Armstrong bill was strongly endorsed by the wilderness groups and received a very high Forest Service rating. The area is heavily used for non-motorized recreation, especially hunting and fishing. Wildlife includes deer, elk, black bear, small animals and birds, and several rare and endangered species (bald eagle, peregrine falcon, bighorn sheep and cutthroat trout); wilderness designation may help to preserve these species and their habitats.

Explanation of differences from other bills or proposals:

The Armstrong proposal recommends for wilderness designation a part of the much larger acreage total recommended by the Administration and the House and Hart bills; it reflects the resource conflicts and strong public opinion that has characterized the proposal.

Forest Service reports indicate that 70% of those commenting in their RARE II evaluation of this area wanted no wilderness additions to the Mount Zirkel area and elected officials in Routt or Jackson counties communicated opposition rather than support for wilderness designation for this area. Portions of the Administration endorsed area are also heavily used by off-road vehicle enthusiasts.

Most importantly, the Mount Zirkel area represents an extremely important source of sawtimber for the mills at Walden, Kremmling and Laramie, Wyoming (the areas excluded from the Armstrong proposal contain over 5 hundred million board feet of standing softwood timber, with a potential annual yield of several million board feet); the areas excluded by the Armstrong bill also are highly important for grazing.

Armstrong proposal represents a balancing of competing needs and interests and reflects the fact that very large areas have been recommended for addition to the wilderness system immediately to the east of the Mount Zirkel area and much land has already been designated as wilderness and national park in this northern park of Colorado. Designa-

tion of more wilderness acreage around Mount Zirkel would have a very serious adverse impact on the local economies of many communities and would threaten the continuing existence of the timber industry in northern Colorado.

The Armstrong bill also includes a statutory provision to protect the rights of the City of Steamboat Springs if they decide to proceed with the Soda Creek Water Project which is currently undergoing study.

All three Colorado bills (Armstrong, Hart, House) exclude the southernmost acreage recommended for wilderness by the Administration, because of high oil and gas and geothermal potential and presence of oil and gas leases.

WILDERNESS AREA NAME: NEOTA FLAT TOPS WILDERNESS

Comparison of wilderness recommendations (acres):

Armstrong	9,900
Hart	9,900
House	9,900
Administration	9,900

General description of area:

This area is located at northwest corner of Rocky Mountain National Park. The entire area is above 10,000 feet: one-fourth of area is rock and tundra; lower elevations are forests and meadows. The region is dominated by large flat top ridges caused by glacial erosion.

Reasons for wilderness recommendation by Armstrong:

This is one of few Colorado areas to be completely covered by true glacier during the ice age; it has some of the most scenic and varied glacial topography in the state. The terrain is mostly gentle and good for hiking. It received a high Forest Service wilderness rating. The region has much wildlife (deer, bear, beaver, elk, bighorn sheep, grouse) and provides many opportunities to observe big game during summer months. Many streams support native and brook trout. The area receives moderate use by hikers and campers.

Explanation of differences from other bills or proposals:

The Armstrong proposal is identical to others in acreage.

Grazing conflicts are addressed in the Armstrong bill through use of special statutory grazing language.

Possible timber conflicts and local industry needs for a stable supply of commercial grade timber are addressed in Armstrong proposal, through boundary adjustment in other nearby proposed wilderness areas and through release language in the bill (which will provide the timber industry with greater certainty in preparation of longer range sustained yield timber cutting plans and protect jobs at Walden and Kremmling sawmills).

Although the area received high Forest Service ratings for uranium and metals, there is no active exploration in the area at present. The Armstrong bill includes a provision which extends the Wilderness Act's 1984 deadline for mineral exploration for 20 years to insure that these important resource options are not foreclosed by wilderness designation.

WILDERNESS AREA NAME: NEVER SUMMER MOUNTAINS WILDERNESS

Comparison of wilderness recommendations (acres):

Armstrong	10,000
Hart	26,900
House	14,900
Administration	14,900

General description of area:

This area is located on the west edge of Rocky Mountain National Park. It has many high peaks, much alpine tundra and a variety of wildlife.

Reasons for wilderness recommendation by Armstrong:

The Armstrong proposal contains a portion of the area which received a high wilderness rating by the Forest Service. Little grazing and only a small amount of commercial timber is present in area; no immediate adverse impact on any dependent community would be created by wilderness designation. Wilderness is abundant (deer, elk, bear, mountain lion, bighorn sheep and smaller animals) and may include several rare and endangered species. High lakes and many streams are well stocked with fish. Area was strongly endorsed for wilderness by several Colorado wilderness groups.

Explanation of differences from other bills or proposals:

The entire Never Summer area received a very high number of comments during RARE II; 88 percent of those commenting requested non-wilderness designation; Jackson County officials want non-wilderness for the area.

The major areas at issue are the core area, the Bowen/Baker Gulch area, and the western panhandle area. The Armstrong bill includes the core area in wilderness as do the other measures. The Armstrong proposal excludes Bowen/Baker Gulch; the others do not. The western panhandle is included in wilderness only by Senator Hart.

The Bowen and Baker Gulch areas are extremely popular snowmobiling areas and are heavily used by many families from the Grand Lake area; wilderness designation would stop all snowmobiles, but non-wilderness designation and snowmobiling use will not impair wilderness style recreation, management or ecology of area; Bowen and Baker Gulch is a good example of area which need not and probably should not be designated wilderness, even though it possesses wilderness characteristics.

In the same area, Ruby Mountain/Bowen Pass area near Bowen Gulch has known deposits of fluorspar and tungsten, and also gold and silver; potential for these and other minerals is extremely high in this area.

The western panhandle area (added to wilderness only by Senator Hart) has extremely high oil, gas and metals potential (it is in a sedimentary basin), as well as a potential for approximately 20 million pounds of uranium (U 308), according to Forest Service, Geological Survey and industry. This area is currently being explored for such resources; it is also very popular with snowmobilers.

WILDERNESS AREA NAME: THE RAGGEDS WILDERNESS

Comparison of wilderness recommendations (acres):

Armstrong	61,100
Hart	71,500
House	67,000
Administration	61,100

General description of area:

This region in central Colorado's Elk Mountains has spectacular topographic features, including a deep canyon, sharp peaks, gentle tundra covered slopes, hanging valleys, streams and lakes. It also has much wildlife and vegetation. However, several portions of the Raggeds Area also has very high mineral values.

Reasons for wilderness recommendation by Armstrong:

In addition to its spectacular scenic qualities, many parts of the Raggeds Area have very lush vegetative cover due to the heavy annual precipitation, which in places reaches 70 inches. Several prominent peaks dominate the area, and the canyon cut by Anthracite Creek is especially unique. Golden eagles, bighorn sheep, elk, bear, beaver and trout inhabit the area. Hunting, fishing, hiking and backpacking are all important activities in this area.

Explanation of differences from other bills or proposals:

Two principal areas of difference are the Treasure Mountain Dome on the northeast and the Oh Be Joyful Creek area on the southeast. The Armstrong proposal excludes both of these areas, as does the Administration proposal; the House proposal includes Oh Be Joyful but not Treasure Mountain. The Hart proposal includes both areas.

Treasure Mountain and Oh Be Joyful have a very high uranium and hardrock mineral potential (gold, silver, lead, zinc, copper, tungsten, molybdenum). Much exploration is currently underway in both units. Motorized recreation is also important in these areas, but especially in the Oh Be Joyful area, which is traversed by a heavily used, four-wheel drive road.

Within the Oh Be Joyful unit itself, there are one uranium project, one natural gas exploration project which plans to drill during the summer of 1980 and many hardrock claims and coring operations. The Treasure Mountain and Oh Be Joyful units are covered by numerous hardrock mining claims and are being evaluated by coring operations.

The proposed Mount Emmons Molybdenum Project is immediately adjacent to the Oh Be Joyful unit. This deposit is currently valued at $7.5 billion, and (if developed) could provide as many as 1,200 permanent mining jobs. Wilderness designation of the Oh Be Joyful unit could impair the Mount Emmons Project, as well as these other mineral operations.

The Colorado Joint Review Process and various Forest Service feasibility and environmental studies are currently evaluating the Mount Emmons Project and the watershed and other issues that have been raised. These review and land use planning processes should not be short-circuited by wilderness designation at this time.

Club 20 endorses deletion of Treasure Mountain and Oh Be Joyful; they also point out that wilderness designation of the Oh Be Joyful unit would prevent the town of Crested Butte from developing the watershed in that unit, should such development ever become necessary.

WILDERNESS AREA NAME: RAWAH WILDERNESS ADDITIONS

Comparison of wilderness recommendations (acres):

Amstrong	48,900
Hart	48,900
House	48,900
Administration	49,200

General description of area:

This proposal would add acreage to the existing Rawah Wilderness, located north of Rocky Mountain National Park. Most of this acreage is heavily forested. Numerous small streams drain from the area into the Laramie River. Most significant feature is Shipman Park, an 1,800-acre meadow north of the existing wilderness area.

Reasons for wilderness recommendation by Armstrong:

The addition of a number of small, isolated areas along the west side of the Rawah Wilderness will bring this western wilderness boundary up to the edge of the national forest. The addition of the larger areas reflect their high wildlife value and high use for non-motorized recreation (the greater Rawah area currently receives approximately 12,000 visitor days of use per year). The wildlife include elk, deer, black bear and beaver and a few bighorn sheep. Wilderness resource conflicts with timber and mineral resources are generally low to moderate.

Explanation of differences from other bills or proposals:

The Armstrong acreage proposal is identical to the House and Hart bills.

WILDERNESS AREA NAME: SOUTH SAN JUANS WILDERNESS

Comparison of wilderness recommendations (acres):

Armstrong	75,000
Hart	157,000
House	130,000
Administration	134,000

General description of area:

Located along Continental Divide in San Juan Mtns of Conejos and Archuleta Cos, this area has highly variable terrain, wildlife and vegetation. The area is important for hiking, climbing, timber, plant species, wildlife habitat, winter and summer vehicle recreation, cross-country skiing, minerals, grazing and fuel for local residents.

Reasons for wilderness recommendation by Armstrong:

The area recommended by Armstrong is part of a larger area recommended for wilderness by the Administration, Colorado wilderness groups, and many outfitters. The area included in Armstrong's proposal is highly scenic and draws people who want to hike, ski tour and observe nature. The area contains important habitat for elk, deer, birds and several mountain lion and grizzly bear; as well as many fish in lakes and rivers throughout the area. A portion of the Conejos River in this part of the area was recently recommended for wild and scenic river designation.

Explanation of differences from other bills or proposals:

The total area at issue includes four parts: northwestern core, southeastern part of Continental Divide, southern panhandle, and northern triangle. Armstrong recommendation places northwestern core in wilderness and excludes the three remaining areas.

At the request of Congressman Kogovsek, Colo. State Rep. James Lilipop, a San Luis Valley Group (Citizens for a Balanced RARE II Bill), and many local citizens, Armstrong wilderness recommendation does not include the southeastern part (included in House and Hart bills). This part is used by many families and senior citizens for snowmobiling, fishing, sightseeing and picknicking and as a source of timber to heat their homes. The southeastern part is also the last high lake country in San Luis Valley left open to snowmobiles and other motor vehicles and according to local residents is highly used after work and on weekends throughout the year. There are many roads and trails present here.

The Armstrong and House bills exclude the southern panhandle, while the Hart bill includes this part. The area is important as a potential source of timber for local mills. If placed in wilderness, companies would be forced to compete for reduced overall timber supply and to go greater distances for timber. Both factors would adversely affect saw mill economics and employment (at Durango, South Fork and New Mexico mills).

The northern triangle (excluded in Armstrong and House bills/included in Hart bill) is an area with high mineral potential. There is high uranium potential; very high gold, silver, copper, molybdenum and tungsten potential; and exploration is underway by several companies. The potential from many local mineral-related jobs is best protected by Armstrong proposal which retains critical mineralized areas in multiple use.

WILDERNESS AREA NAME: SAINT LOUIS PEAK

Comparison of wilderness recommendations (acres):

Armstrong	9,500
Hart	13,300
House (not included)	------
Administration	13,300

General description of area:

Located along Highway 40 near Winter Park, this area is characterized by high elevations and rugged terrain. About 80% of the area is in the alpine zone, though there is some lodge pole pine and several dense stands. Vasquez Creek Drainage is along eastern edge of proposed wilderness.

Reasons for wilderness recommendation by Armstrong:

Because of its location, this area is readily accessible to Denver residents and would receive heavy wilderness use. The area itself has good scenic values, including several unique and prominent peaks, and provides a view of additional highly scenic areas. Wildlife values include blue grouse, ptarmigan, marmot and various birds, big game habitat is limited.

Explanation of differences from other bills or proposals:

Armstrong proposal excludes eastern third of area recommended for wilderness by Senator Hart, because it has very high base and precious metals potential (molybdenum, gold and silver) and extremely high uranium potential (Forest Service gave eastern third of area a rating of 99 out of 100 for uranium); area is being actively explored by several companies.

Armstrong bill also includes special statutory language to protect Denver water rights associated with potential project on Vasquez Creek.

WILDERNESS: AREA NAMES UNCOMPAGHRE WILDERNESS

Comparison of wilderness recommendations (acres):

Armstrong	96,000
Hart	100,000
House	100,000
Administration (does not include Uncompaghre Primitive Area)	59,500

General description of area:

The area includes highly varied terrain, ranging from very steep slopes and rugged peaks to canyons and flat ridge areas. Vegetation is also highly varied (tundra, Engleman spruce, aspen, grassy meadow, rock). There are many streams and much wildlife throughout area. There is very high mineral potential in several portions of area.

Reasons for wilderness recommendation by Armstrong:

Valleys and canyons formed by three forks of Cimarron River contain intricately carved cliffs and rock formations. These and mtn. peaks make area extremely scenic. Many peaks very popular with technical climbers because of challenge. Valleys in eastern part of Uncompaghre have much wildlife (deer, elk, badger, bobcat, eagles) and draw many visitors; trout streams in area are also popular. 140 miles of hiking trails course through a wide variety of areas from many trail heads.

Explanation of differences from other bills or proposals:

Administration recommendation was for two separate wilderness areas (Big Blue and Courthouse Mtn); all Congressional proposals, including Armstrong, connect these two areas by designating as wilderness additional RARE II and primitive areas not recommended for wilderness by Administration.

The Armstrong proposal makes a small deletion in the vicinity of Baldy Peak, to protect high commercial timber values and very high uranium, zinc, gold, silver, and geothermal potential; local economic and national security interests thereby, would be protected.

Entire Uncompaghre is in one of richest portions of the Colo. mineral belt; has very high potential for gold, silver, molybdenum, uranium and geothermal energy; area has impressive mining history and is very close to Creede, Lake City, Ouray, Silverton and the Telluride Mining Districts; gold in Big Blue on east side of Uncompaghre occurs in high grade veins and, according to existing exploration data, is probably worth hundreds of millions of dollars, but exploration here is not in advanced stage.

Mineral potential throughout Uncompaghre area underlines importants of extending mineral exploration and production deadline in Wilderness Act; deadline is currently scheduled to expire in 1984.

Grazing is also important in Uncompaghre, particularly in Big Blue unit.

WILDERNESS AREA NAME: WEMINUCHE WILDERNESS ADDITIONS

Comparison of wilderness recommendations (acres):

Armstrong	66,000
Hart	66,000
House	66,000
Administration	66,000

General description of area:

Weminuche is one of the largest contiguous wilderness areas in U.S. Congressional proposals would add alpine meadows, rock ridges, high peaks, flat valleys and many streams to existing wilderness. As is case for existing wilderness, areas to be added also have very high mineral and timber potential.

Reasons for wilderness recommendation by Armstrong:

All proposed additions were given high wilderness ratings by Forest Service and were recommended by Administration. Areas are important for game and non-game wildlife, fish, varied vegetation, hiking, hunting and fishing. Designation of these additional areas has strong support of many Colorado wilderness groups.

Explanation of differences from other bills or proposals:

No differences exist among the various congressional bills; however, several brief comments are in order.

Many Coloradoans have questioned the need for making additions to a wilderness area which already is equal to nearly 70 percent of the entire State of Rhode Island, particularly in view of the high mineral potential of the entire Weminuche area, the fact that well over 300,000 acres of additional Forest Service existing or proposed wilderness are present within 30 miles of the Weminuche, and the fact that BLM has also inventoried thousands of acres of wilderness study lands in the vicinity.

However, Armstrong proposal for Weminuche conforms with House and Hart versions, because of undeniably high wilderness and wildlife values in proposed additions. Overall Armstrong bill is designed to provide balance between wilderness and nonwilderness values; recognizing serious resource conflicts are inherent in most if not all wilderness legislation, it underscores the need for special release, grazing and mineral provisions in the legislation.

Additional comments on Weminuche issues are included in discussion of La Garita Wilderness Additions (many of same concepts apply to these areas, which are close to one another).

WILDERNESS AREA NAME: WEST ELK WILDERNESS ADDITIONS

Comparison of wilderness recommendations (acres):

Armstrong	119,000
Hart	133,500
House	130,000
Administration	150,000

General description of area:

Is generally above 10,000 feet with well defined peaks, parks and drainages. This area, highly vegetated, is an important habitat for elk, deer and other wildlife. It also receives heavy motorized and non-motorized recreational use and has very high mineral potential, high timber values and much grazing.

Reasons for wilderness recommendation by Armstrong:

Area included in Armstrong proposal is very scenic and received high wilderness rating by Forest Service which recommended it for wilderness. Wildlife includes elk, black bear, bighorn sheep, deer, some beaver and golden eagles, and many other small animals and birds; brook and rainbow trout are found in streams. The area receives much use for hunting, fishing, hiking and other activities.

Explanation of differences from other bills or proposals:

The Armstrong proposal excludes—as do all other congressional proposals—heavily forested land on the east side of the wilderness area, with high commercial timber value and importance to Silver Tip Studs Company and other sawmills in Montrose area.

The Armstrong bill also excludes an area bordered by Sink Creek and Curecanti Creek, which is important for grazing and contains many improvements related to ranching operations in area (roads, fences, stockwatering troughs and ponds). Wilderness designation even with statutory grazing provisions, would in this case prove sufficiently restrictive that ranching operations would be economically harmed.

A third Armstrong exclusion is a small area near Sheep Mountain, because of extremely high potential for molybdenum associate with tungsten, gold and silver. The potential exists for underground mines similar to that in Henderson, with significant potential employment. Experience at Henderson and other modern mine areas in Colorado demonstrates that both exploration and mining can be conducted in a safe, environmentally responsible, and economic manner.

By Mr. DURENBERGER:

S. 2742. A bill to amend the Internal Revenue Code of 1954 to provide that severance pay resulting from a plant closing shall be subject to tax at reduced rates; to the Committee on Finance.

TAXATION OF SEVERANCE PAY

Mr. DURENBERGER. Mr. President, I rise to introduce a bill amending the Internal Revenue Code of 1954 relating to the taxation of severance pay.

Mr. President, the Armour Co. in 1978 closed the plant in south St. Paul, Minn., putting several hundred people out of work. Many of those employees were eligible for severance pay based in part on years of employment. In many cases these payments will cause unfavorable tax results since the income must be reported in the year of receipt and the applicable taxes paid on the lump-sum payment. Because of the sums involved, the current income averaging rules do not provide adequate relief.

Mr. President, this bill would correct the problem by allowing the former Armour Co. employees to spread their severance pay over a 10-year period.

Mr. President, the State of Minnesota has enacted similar legislation and my colleague ARLEN ERDAHL has introduced an identical bill in the House of Representatives.

Mr. President, this legislation is extremely important as many former employees will be required to live on their severance pay and I am hopeful that the Senate Finance Committee will have an early opportunity to consider this bill.

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. 2742

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter Q of chapter 1 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new part:

"PART VIII—CERTAIN SEVERANCE PAY

"SEC. 1355. CERTAIN SEVERANCE PAY.

"(a) IMPOSITION OF SEPARATE TAX ON QUALIFIED SEVERANCE PAY.—

"(1) SEPARATE TAX.—There is hereby imposed a tax on qualified severance pay received or accrued during the taxable year in an amount equal to 10 times the tax which would be imposed by subsection (c) of section 1 if—

"(A) the recipient were an individual referred to in such subsection, and

"(B) the taxable income were an amount equal to $2,300 plus 1/10 of the total qualified severance pay for the taxable year.

"(2) LIABILITY FOR TAX.—The recipient shall be liable for the tax imposed by this paragraph.

"(b) ALLOWANCE OF DEDUCTION.—The amount of qualified severance pay for the taxable year shall be allowed as a deduction from gross income for such year, but only to the extent included in the taxpayer's gross income for such taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED SEVERANCE PAY.—

"(A) IN GENERAL.—The term 'qualified severance pay' means—

"(i) the amount received for the cancellation of an employment contract, or

"(ii) the amount of a collectively bargained termination payment in the nature of a substitute for income which would have been earned for personal services to be rendered in the future,

but only if such amounts are received or accrued with respect to a qualified plant closing.

"(B) AMOUNTS MUST BE RECEIVED IN 1 TAXABLE YEAR.—An amount shall be treated as qualified severence pay of an employee with respect to a qualified plant closing of an employer only if all such amounts which may be so treated by such employee with respect to such closing under paragraph (1) are received or accrued by the taxpayer during 1 taxable year.

"(2) QUALIFIED PLANT CLOSING.—The term 'qualified plant closing' means the termination of the operation of the trade or business of the employer at a particular site if, under regulations prescribed by the Secretary, such termination is reasonably likely—

"(A) to be permanent, and

"(B) to involve the discharge within a 12-month period of at least 75 percent of the employees of such employer at such site."

(b) Section 62 of such Code (defining adjusted gross income) is amended by inserting after paragraph (14) the following new paragraph:

"(15) CERTAIN SEVERANCE PAY.—The deduction allowed by section 1355(b)."

(c) The table of parts for subchapter Q of chapter 1 of such Code is amended by adding at the end thereof the following:

"Part VIII. Certain severance pay."

(d) The amendments made by this Act shall apply to taxable years beginning after December 31, 1978.

By Mr. DOLE (for himself, Mr. ROTH, Mr. CHAFEE, Mr. BAKER, Mr. DANFORTH, Mr. WALLOP, Mr. GOLDWATER, Mr. SCHWEIKER, Mr. HATFIELD, Mr. HEINZ, and Mr. GARN):

S. 2745. A bill to amend the Internal Revenue Code of 1954 to provide for the establishment of, and the deduction of contributions to, education savings accounts and housing savings accounts; to the Committee on Finance.

HOUSING AND EDUCATION SAVINGS ACCOUNT ACT

● Mr. DOLE. Mr. President, the unhealthy state of the economy in recent times has had many serious consequences for the people of this Nation. For the first time in many years, people are beginning to lose faith that they will be able to improve their lives and provide a better life for their children. Social mobility is the cement that holds a free nation together. Obviously, to reverse this economic situation will take broad efforts on the part of this Congress to curtain inflation and stimulate capital formation.

In an effort to effect these goals, I am today introducing legislation along with Senators ROTH, CHAFEE, BAKER, DANFORTH, WALLOP, GOLDWATER, SCHWEIKER, HATFIELD, HEINZ, and GARN to provide individuals with an incentive to help them purchase their first home and to provide for their children's education. These accounts would be structured similar to an IRA. They would provide a mechanism for tax deferral, rather than tax avoidance.

HOUSING SAVINGS ACCOUNTS

The bill permits an individual to establish a housing savings account and to obtain a tax deduction of up to $1,500 for contributions to the account each year for 10 years. This would allow an individual to accumulate up to $15,000 plus investment gain over the life of the account. Married couples filing a joint return would be able to contribute $3,000 per year for a total of $30,000 plus gain on this investment.

The bill provides that a housing savings account could be set up solely to fund the purchase of an individual's first home. It is these people who have suffered disproportionately from the vast inflation in housing prices over the last few years since they usually have insufficient means to save for an ever increasing minimum down payment. It may be possible to examine further whether less restrictive limitations may be necessary if other segments of our population are unable to sell a small house and purchase another modestly priced home.

If the amount accumulated in a housing savings account is used to purchase a first home, there will be no tax at the time the account assets are distributed. But this amount could be recaptured on a subsequent sale if another house is not purchased.

Let me give an example of how this bill would work. Suppose a couple contributes $2,000 per year to a housing savings account for 4 years and this investment grows in value to $9,000. The couple could take a tax deduction of $2,000 per year contributed to the account. They also would have to pay no tax on the $1,000 gain.

The $9,000 may be taken from the account and used to purchase a first home at any time. There would be no tax at that time. Similarly, there would be no tax if the couple subsequently sold their home and bought another of at least equal value. However, if the couple sold

the home and decided not to buy another, the $9,000 would then be subject to tax. Alternatively, the one-time $100,000 exclusion of gain from sale of a principal residence by an individual who has attained age 55 would be reduced by the $9,000 when that first residence is sold.

MANY INDIVIDUALS PRECLUDED FROM HOMEOWNERSHIP

In March, the median sales price of a new home was $63,800, making the price of a new home nearly twice what it cost in 1974. It has also been estimated that, at a 15-percent mortgage interest rate, fewer than 5 percent of American families can afford the median price of a new home. Current experience bears this out: sales of single-family homes fell 17.4 percent in March, the lowest sales level since February 1975.

The purchase of a home has been the traditional way for young people to acquire a stake in our society. This legislation will thus provide a stabilizing influence on society as well as fostering a major aspect of the American dream which may otherwise vanish for many people.

CONSTRUCTION INDUSTRY SUFFERING SEVERE DECLINE

Additionally, efforts to encourage home purchases will help buoy the rapidly sinking construction industry. The United States experienced in March of this year the largest monthly decline in new construction since 1944. New private residential construction was the segment of the new construction worst hit, dropping over 8 percent compared with the previous month.

Not only are most homebuilders small businessmen already suffering from inordinately high interest rates, but their workers are leading the Government's unemployment figures. Unemployment among construction workers rose to more than 15 percent in April, compared to 7 percent among the workforce in general. It is clear that something must be done to stem these unacceptable events. The home savings account will provide a much needed step in the right direction.

EDUCATION SAVINGS ACCOUNTS

The second part of this bill is aimed at the other major expense incurred by families, the higher education of their children.

The bill provides that an education savings account may be established for each child. Parents and the child may contribute up to $1,000 per year to this account and receive a corresponding tax deduction. Contributions may be made each year of a child's life until the child reaches 21 or enrolls at a qualified college or vocational school, whichever occurs first.

Amounts from the fund will not be subject to tax when used for tuition, fees, and reasonable living expenses while the child is at a qualified educational institution. However, the amounts so expended will be included ratably in the child's income over a 10-year period beginning in the year the child attains age 25.

EDUCATION COSTS ARE PROHIBITIVE

The need to help families provide for higher education costs is manifest. The costs of an education at both public and private colleges have increased dramatically over the past 10 years. For instance, the median cost of an education at a private college has increased 105 percent over the last 10 years and the median cost for an in-State student at a public university has increased 80 percent over the same period. The costs for both in-State and out-of-State students in public schools and for students in private schools have all out-paced the consumer price index for this period.

With the cost of higher education rising so dramatically, many people will not be able to afford to pursue higher education without assistance. This bill is intended to encourage long-term savings for education, rather than relying solely on loans and grants when an individual reaches college age.

CAPITAL FORMATION

I firmly believe that Government aid in the form of this type of tax incentive will provide an effective way to help individuals enjoy the benefits of homeownership and receive needed education while providing much needed funds to encourage capital investment.

Tax policy in this country has tended, in recent years, to encourage consumption and discourage investment, savings, and capital formation. Among major industrialized nations, the United States ranks last in savings as a percent of income, last in fixed investment as a percent of GNP, and last in productivity growth. This is no accident and it is not caused by the profligacy of our citizens. It is simply a result of tax policy.

The bill I am introducing today is intended to follow a new direction in tax policy, a policy encouraging savings, rather than consumption. With a recession upon us, there is no more opportune time to commit ourselves to reversing the trend in this Nation's productivity and this commitment must consist, in major part, of incentives for investment.

INFLATION PROTECTION

Finally, Mr. President, both accounts provide for indexing of the maximum deductible contribution. I firmly believe that an incentive for savings such as that provided in this bill will assist greatly in the fight against inflation. But in the meantime, it also is important that the impact of these provisions not be diminished by inflation while incomes are artificially increased by inflation forcing taxpayers into higher tax brackets. People of this Nation deserve protection from the ravages of inflation over which they can exercise so little control. This provides a mechanism to preserve the real value of the deductible amount in times of economic instability.

The estimated revenue impact for 1981 is $2.1 billion for the housing savings account, if the provisions are not phased in. The Senator from Kansas recognizes that we in Congress have a duty to the people of this country to act with utmost fiscal responsibility.

It may therefore be advisable to examine a phase-in of this legislation. For instance, if this bill is phased in over a 3-year period, the first year combined revenue estimate for both savings accounts would drop to $2.1 billion. It is important to point out, however, that these revenue estimates do not reflect the positive revenue producing effect of the additional funds that this legislation will make available to increase productive capacity, and is a very minor price to pay for such great benefits to be derived.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with a chart containing the revenue impact of the bill for years 1981 through 1985 as prepared by the staff of the Joint Committee on Taxation.

Mr. President, Congressman CONABLE, the ranking member of the Ways and Means Committee, introduced an identical bill as H.R. 7381 in the House yesterday.

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

S. 2745

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

SECTION 1. EDUCATION SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as 222 and by inserting after section 220 the following new section:

"SEC. 221. EDUCATION SAVINGS ACCOUNT.

"(a) DEDUCTION ALLOWED.—In the case of an individual, there is allowed as a deduction the sum of—

"(1) amounts paid in cash, and

"(2) the fair market value at times of transfer of stock, bonds, or other securities, which are readily tradeable on an established securities market, transferred,

during the calendar year which ends with or within the taxable year by such individual to an education savings account established for the benefit of an eligible individual.

"(b) LIMITATIONS.—

"(1) ACCOUNT MAY NOT BE ESTABLISHED FOR BENEFIT OF MORE THAN 1 INDIVIDUAL.—An education savings account may not be established for the benefit of more than 1 individual.

"(2) INDIVIDUAL MAY NOT BE BENEFICIARY OF MORE THAN 1 ACCOUNT.—An individual who is the beneficiary of more than 1 education savings account during any calendar year shall not be treated as an eligible individual for that calendar year.

"(3) MAXIMUM DEDUCTION PER ACCOUNT.—The amount allowable as a deduction under subsection (a) to an individual for amounts paid or transferred to an account for any calendar year shall not exceed $1,000.

"(4) CONTRIBUTIONS BY MORE THAN 1 PERSON.—If more than 1 individual makes contributions to an education savings account during a calendar year, the $1,000 amount under paragraph (3) shall be allocated proportionately among all individuals contributing to the account during that year on the basis of the amounts contributed by each such individual.

"(5) ADJUSTMENT OF LIMIT FOR INFLATION.—

"(A) IN GENERAL.—Beginning in 1982, the dollar amounts in paragraph (3), paragraph (4), and subsection (c)(2)(A) shall each be adjusted by multiplying such amounts by the inflation adjustment factor for the 12-month period ending on July 31 of the preceding calendar year and, as adjusted, shall be substituted for such amounts for taxable years ending with or within the calendar year next beginning after such 12-month period.

"(B) COMPUTATION OF INFLATION ADJUSTMENT FACTOR.—

"(i) DETERMINATION AND PUBLICATION.—The Secretary shall, not later than October 1 of each calendar year (beginning in 1981), determine and publish in the Federal Register the inflation adjustment factor for the immediately preceding 12-month period ending on July 31 in accordance with this paragraph.

"(ii) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the average monthly Consumer Price Index (all items—United States city average) published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period ending on July 31 and the denominator of which is the average monthly Consumer Price Index (all items—United States city average) for the 12-month period ending on July 31, 1980.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means the taxpayer or a child of the taxpayer (within the meaning of section 151(e)(3) unless the taxpayer or child—

"(A) has attained the age of 21 before the close of the calendar year for which the contribution is made, or

"(B) is enrolled as a full-time student at an eligible educational institution for more than 4 weeks during that calendar year.

"(2) EDUCATION SAVINGS ACCOUNT.—For purposes of this section, the term 'education savings account' means a trust created or organized in the United States exclusively for the purpose of paying the educational expenses of an eligible individual, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted unless it is in cash, stocks, bonds, or other securities which are readily tradeable on an established securities market, and contributions will not be accepted for the taxable year in excess of $1,000.

"(B) The trustee is a bank (as defined in section 401(d)(1)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts (other than contracts the beneficiary of which is the trust and the face amount of which does not exceed the amount by which the maximum amount which can be contributed to the account exceeds the sum of the amounts contributed to the account for all taxable years).

"(D) The assets of the account may be invested in accordance with the direction of the individual contributing to the account, but, if more than one individual has made contributions to the account, the consent of all such individuals shall be required for any such direction.

"(E) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(F) Any balance in the account on the day before the date on which the individual for whose benefit the trust is established attains age 26 will be distributed on that date to each of the individuals who have contributed to the trust in an amount which bears the same ratio to such balance as such individual's contributions bear to the sum of all such contributions.

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of a calendar year if the contribution is made on account of such calendar year and is made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof) with or within which the calendar year ends.

"(4) STOCK, ETC., TO BE VALUED AS OF TRANSFER DATE.—The fair market value of stocks, bonds, and other securities shall be determined as of the date on which they are transferred to the account. If the date of transfer falls on a Saturday, Sunday, or public legal holiday, then the fair market value shall be determined by reference to the last preceding day on which they could have been traded on an established securities market.

"(5) EDUCATIONAL EXPENSES.—The term 'educational expenses' means—

"(A) tuition and fees required for the enrollment or attendance of a student at an eligible educational institution,

"(B) fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution, and

"(C) a reasonable allowance for meals and lodging.

"(6) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means—

"(A) an institution of higher education, or

"(B) a vocational school.

"(7) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means the institutions described in section 1201 (a) or 491(b) of the Higher Education Act of 1965.

"(8) VOCATIONAL SCHOOL.—The term 'vocational school' means an area vocational education school as defined in section 195(2) of the Vocational Education Act of 1963 which is in any State (as defined in section 195(8) of such Act).

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) In general.—Except as otherwise provided in this subsection, any amount paid or distributed out of an education savings account shall be included in gross income by each individual who has contributed to the account, in an amount which bears the same ratio to such payment or distribution as the amount contributed by that individual for all taxable years bears to the amounts contributed by all individuals for all taxable years, for the taxable year in which the payment or distribution is received, unless such amount is used exclusively to pay the educational expenses incurred by the individual for whose benefit the account is established.

"(2) Excess contributions returned before due date of return.—Paragraph (1) does not apply to the distribution of any contribution paid during a taxable year to an education savings account to the extent that such contribution exceeds the amount allowable as a deduction under subsection (a) if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year,

"(F) no deduction is allowed under subsection (a) with respect to such excess contribution, and amount of net income attributable to such excess contribution.

Any net income described in subparagraph (C) shall be included in the gross income of the individual for the taxable year in which it is received.

"(3) QUALIFIED DISTRIBUTIONS INCLUDED IN BENEFICIARY'S INCOME OVER 10-YEAR PERIOD.—The gross income of an individual for whose benefit an education savings account was established for the taxable year in which that individual attains age 25 and for each of the 9 succeeding taxable years shall be increased by 10 percent of the sum of the amounts paid or distributed out of the account which were used exclusively to pay the educational expenses incurred by that individual.

"(e) TAX TREATMENT OF ACCOUNTS.—

"(1) EXEMPTION FROM TAX.—An education savings account is exempt from taxation under this subtitle unless such account has ceased to be an education savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) LOSS OF EXEMPTION OF ACCOUNT WHERE INDIVIDUAL ENGAGES IN PROHIBITED TRANSACTION.—

"(A) IN GENERAL.—If, during any taxable year of an individual who contributes to an education savings account, that individual engages in any transaction prohibited by section 4975 with respect to the account, the account ceases to be an education savings account as of the first day of that taxable year.

"(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be an education savings account by reason of subparagraph (A) on the first day of any taxable year, paragraph (1) of subsection (d) applies as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the individual for whose benefit an education savings account is established uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual.

"(f) ADDITIONAL TAX ON CERTAIN AMOUNTS INCLUDED IN GROSS INCOME.—

"(1) DISTRIBUTION NOT USED FOR EDUCATIONAL EXPENSES.—If a distribution from an education savings account is made, and not used in connection with the payment of educational expenses of the individual for whose benefit the account was established, the tax liability of each of the individuals who has contributed to the account for the taxable year in which such distribution is received shall be increased by an amount equal to 10 percent of the amount of the distribution which is includable in his gross income for such taxable year.

"(2) DISQUALIFICATION CASES.—If an amount is includible in the gross income of an individual for a taxable year under subsection (d), his tax under this chapter for such taxable year shall be increased by an amount equal to 13 percent of such amount required to be included in his gross income.

"(3) DISABILITY CASES.—Paragraphs (1) and (2) do not apply if the payment or distribution is made after the taxpayer becomes disabled within the meaning of section 72(m)(7).

"(g) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

"(h) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 401(d)(1)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an education savings account described in subsection (c). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(i) REPORTS.—The trustee of an education savings account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contribu-

tions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.".

(b) DEDUCTION ALLOWED IN ARRIVING AT ADJUSTED GROSS INCOME.—Paragraph (10) of section 62 of such Code (relating to retirement savings) is amended—

(1) by inserting "or education" after "Retirement" in the caption of such paragraph, and

(2) by inserting before the period at the end thereof the following: "and the deduction allowed by section 221 (relating to deduction of certain payments to education savings accounts)".

(c) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 of such Code (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, certain individual retirement annuities, and certain retirement bonds) is amended—

(1) by inserting "EDUCATION SAVINGS ACCOUNTS," after "ACCOUNTS," in the caption of such section,

(2) by redesignating paragraphs (2) and (3) of subsection (a) as (3) and (4), and by inserting after paragraph (1) the following:

"(2) an education savings account (within the meaning of section 221(c)),", and

(3) by adding at the end thereof the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO EDUCATION SAVINGS ACCOUNTS.—For purposes of this section, in the case of an education savings account, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount allowable as a deduction under section 221(b) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the education savings account and a distribution to which section 221(d)(2) applies shall be treated as an amount not contributed.".

(d) CONTRIBUTION NOT TO BE TREATED AS A GIFT FOR GIFT TAX PURPOSES.—Section 2503 of such Code (relating to taxable gifts) is amended by adding at the end thereof the following new subsection:

"(e) EDUCATION SAVINGS ACCOUNTS.—For purposes of subsection (b), any payment made by an individual for the benefit of his child to an education savings account, described in section 221(c), shall not be considered a gift of a future interest in property to the extent that such payment is allowed as a deduction under section 221.".

(e) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 of such Code (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR EDUCATION SAVINGS ACCOUNTS.—An individual for whose benefit an education savings account is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be an education savings account by reason of the application of section 221(e)(2)(A) to such account.", and

(2) by inserting "or an education savings account described in section 221(c)" in subsection (c)(1) after "described in section 408(a)".

(f) FAILURE TO PROVIDE REPORTS ON EDUCATION SAVINGS ACCOUNTS.—Section 6693 of such Code (relating to failure to provide reports on individual retirement account or annuities) is amended—

(1) by inserting "OR EDUCATION SAVINGS ACCOUNTS" after "ANNUITIES" in the caption of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 221(i) to file a report regarding an education account at the time and in the manner required by such section shall pay a penalty of $10 for each failure unless it is shown that such failure is due to reasonable cause.".

(g)(1) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 221 and inserting in lieu thereof the following:

"Sec. 221. Education savings accounts.
"Sec. 222. Cross references.".

(2) The table of sections for chapter 43 of such Code is amended by striking out the item relating to section 4973 and inserting in lieu thereof the following:

"Sec. 4973. Tax on excess contributions to individual retirement accounts, education savings accounts, certain 403(b) contracts, certain individual retirement annuities, and certain retirement bonds.".

(3) The table of sections for subchapter B of chapter 68 of such Code is amended by striking out the item relating to section 6693 and inserting in lieu thereof the following:

"Sec. 6693. Failure to provide reports on individual retirement accounts or annuities or on education savings accounts.".

(h)(1) Part III of subchapter B of chapter 1 of such Code (relating to items specifically excluded from gross income) is amended by redesignating section 128 and 129 and by inserting after section 127 the following new section:

"SEC. 128. EDUCATION SAVINGS ACCOUNT DISTRIBUTIONS.

"In the case of an individual, and except as is provided in section 221(d)(1), gross income does not include distributions from an education savings account used exclusively for the payment of educational expenses of that individual (within the meaning of section 221(c)(5)).".

(2) The table of sections for such part III is amended by inserting after the item relating to section 127 the following new items:

"Sec. 128. Education savings account distributions.
"Sec. 129. Cross references to other Acts.".

(i) Subsection (b) of section 152 of such Code (relating to definition of dependent) is amended by adding at the end thereof the following new paragraph:

"(6) A payment to an individual for whose benefit an education savings account (as defined in section 221(c)) is established from that account which is excluded from the gross income of that individual under section 128 shall not be taken into account in determining support for purposes of this section.".

(j) The amendments made by this section shall take effect with respect to taxable years beginning after December 31, 1980.

SEC. 2. HOUSING SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as 223 and by inserting after section 221 the following new section:

"SEC. 222. HOUSING SAVINGS ACCOUNT.

"(a) DEDUCTION ALLOWED.—In the case of an individual, there is allowed as a deduction the sum of—

"(1) amounts paid in cash, or

"(2) the fair market value of stocks, bonds, or other securities, readily tradeable on an established securities market, transferred, during the taxable year by such individual to a housing savings account.

"(b) LIMITATIONS.—

"(1) MAXIMUM ANNUAL DEDUCTION.—The amount allowable as a deduction under subsection (a) to an individual for any taxable year may not exceed $1,500 ($3,000 in the case of married individuals filing a joint return).

"(2) MAXIMUM LIFETIME DEDUCTION.—The amount allowable as a deduction under subsection (a) to an individual for all taxable years may not exceed $15,000 ($30,000 in the case of married individuals filing a joint return).

"(3) STOCK, ETC., TO BE VALUED ON TRANSFER DATE.—The fair market value of stock, bonds, and other securities is to be determined as of the date on which it is transferred to the account, or, if the transfer occurs on a Saturday, Sunday, or other public legal holiday, on the last preceding day on which it could have been traded.

"(4) ADJUSTMENT OF LIMIT FOR INFLATION.—

"(A) IN GENERAL.—Beginning in 1982, the dollar amounts in paragraph (1) paragraph (2), and subsection (c)(1)(A) shall each be adjusted by multiplying such amounts by the inflation adjustment factor for the 12-month period ending on July 31 of the preceding calendar year and, as adjusted, shall be substituted for such amounts for taxable years ending with or within the calendar year next beginning after such 12-month period.

"(B) COMPUTATION OF INFLATION ADJUSTMENT FACTOR.—

"(ii) DETERMINATION AND PUBLICATION.—The Secretary shall, not later than October 1 of each calendar year (beginning in 1981), determine and publish in the Federal Register the inflation adjustment factor for the immediately preceding 12-month period ending on July 31 in accordance with this paragraph.

"(ii) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the average monthly Consumer Price Index (all items—United States city average) published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period ending on July 31 and the denominator of which is the average monthly Consumer Price Index (all items—United States city average) for the 12-month period ending on July 31, 1980.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) HOUSING SAVINGS ACCOUNT.—For purposes of this section, the term 'housing savings account' means a trust created or organized in the United States for the exclusive benefit of an individual, or in the case of a married individual, for the exclusive benefit of the individual and his spouse jointly, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted unless it is in cash or in stocks, bonds, or other securities readily tradeable on an established exchange, and contributions will not be accepted for the taxable year in excess of $1,500 on behalf of any individual ($3,000 in the case of a trust for an individual and his spouse), or in excess of $15,000 on behalf of an individual for all taxable years ($30,000 in the case of a trust for an individual and his spouse).

"(B) The trustee is a bank (as defined in section 401(d)(1)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) The entire interest of an individual or married couple for whose benefit the trust is maintained will be distributed to him, or them, not later than 120 months after the date on which the first contribution is made to the trust.

"(F) The assets of the trust shall be invested in accordance with the directions of the individual contributing to the trust, but, if more than 1 individual makes contributions to the trust the consent of all such individuals shall be required with respect to such direction.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) In general.—Except as otherwise provided in this subsection, any amount paid or distributed out of a housing savings account shall be included in gross income by the payee or distributee for the taxable year in which the payment or distribution is received, unless such amount is used exclusively in connection with the purchase of the first dwelling purchased by the payee or distributee which constitutes his principal residence. The basis of any person in such an account is zero.

"(2) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Paragraph (1) does not apply to the distribution of any contribution paid during a taxable year to a housing savings account to the extent that such contribution exceeds the amount allowable as a deduction under subsection (a) if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year,

"(B) no deduction is allowed under subsection (a) with respect to such excess contribution, and

"(C) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (C) shall be included in the gross income of the individual for the taxable year in which it is received.

"(3) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual's interest in a housing savings account to his former spouse under a divorce decree or under a written instrument incident to a divorce is not to be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest, at the time of the transfer, is to be treated as a housing savings account of the spouse, and not of such individual. After the transfer, the account is to be treated, for purposes of this subtitle, as maintained for the benefit of the spouse.

"(e) TAX TREATMENT OF ACCOUNTS.—

"(1) EXEMPTION FROM TAX.—Any individual housing account is exempt from taxation under this subtitle unless such account has ceased to be a housing savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations).

"(2) LOSS OF EXEMPTION OF ACCOUNT WHERE INDIVIDUAL ENGAGES IN PROHIBITED TRANSACTION.—

"(A) IN GENERAL.—If, during any taxable year of the individual for whose benefit a housing savings account is established, that individual engages in any transaction prohibited by section 4975 with respect to the account, the account ceases to be a housing savings account as of the first day of that taxable year. For purposes of this subparagraph the individual for whose benefit any account was established is treated as the creator of the account.

"(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be a housing savings account by reason of subparagraph (A) on the first day of any taxable year, paragraph (1) of subsection (d) applies as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the individual for whose benefit a housing savings account is established uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual.

"(f) ADDITIONAL TAX ON CERTAIN AMOUNTS INCLUDED IN GROSS INCOME.—

"(1) DISTRIBUTION NOT USED TO PURCHASE RESIDENCE.—If a distribution from a housing savings account to an individual for whose benefit such account was established is made, and not used in connection with the purchase of a principal residence for such individual, the tax liability of such individual under this chapter for the taxable year in which such distribution is received shall be increased by an amount equal to 10 percent of the amount of the distribution which is includable in his gross income for such taxable year.

"(2) DISQUALIFICATION CASES.—If an amount is includable in the gross income of an individual for a taxable year under subsection (e), his tax under this chapter for such taxable year shall be increased by an amount equal to 10 percent of such amount required to be included in his gross income.

"(3) DISABILITY CASES.—Paragraphs (1) and (2) do not apply if the payment or distribution is attributable to the taxpayer becoming disabled within the meaning of section 72(m)(7).

"(g) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

"(h) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 401(d)(1)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute a housing savings account described in subsection (c). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(i) REPORTS.—The trustee of a housing account shall make such reports regarding such account to the Secretary and to the individual for whom the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.

"(j) REDUCTION OF BASIS.—The basis of any residence acquired with funds withdrawn from a housing savings account shall be reduced by an amount equal to the amount of expenditures made in connection with the acquisition of the residence out of such funds.".

(b) DEDUCTION ALLOWED IN ARRIVING AT ADJUSTED GROSS INCOME.—Paragraph (10) of section 62 of such Code (relating to adjusted gross income) is amended to read as follows:

"(10) RETIREMENT, HIGHER EDUCATION, AND HOUSING SAVINGS.—The deductions allowed by sections—

"(A) 219 (relating to retirement savings),

"(B) 220 (relating to retirement savings for certain married individuals),

"(C) 221 (relating to education savings), and

"(D) 222 (relating to housing savings).

(c) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 of such Code (relating to tax on excess contributions to individual retirement accounts, certain section 403 (b) contracts, certain individual retirement annuities, and certain retirement bonds) is amended—

(1) by inserting "Housing Savings Accounts," after "Education Savings Accounts," in the caption of such section.

(2) by redesignating paragraphs (3) and (4) of subsection (a) as (4) and (5), and by inserting after paragraph (2) the following:

"(3) a housing savings account (within the meaning of section 222(c)),", and

(3) by adding at the end thereof the following new subsection:

"(e) EXCESS CONTRIBUTIONS TO HOUSING SAVINGS ACCOUNTS.—For purposes of this section, in the case of a housing savings account, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount allowable as a deduction under section 222(b)(1) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the housing savings account and a distribution to which section 222(d)(2) applies shall be treated as an amount not contributed.".

(d) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 of such Code (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR HOUSING SAVINGS ACCOUNTS.—An individual for whose benefit a housing savings account is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a housing savings account by reason of the application of section 222(e)(2)(A) or if section 222(e)(4) applies to such account.", and

(2) by inserting "or a housing savings account described in section 222(c)" in subsection (e)(1) after "described in section 408(a)".

(e) FAILURE TO PROVIDE REPORTS ON HOUSING SAVINGS ACCOUNTS.—Section 6693 of such Code (relating to failure to provide reports on individual retirement account or annuities) is amended—

(1) by inserting "Or Housing Savings Accounts" after "Education Savings Accounts," in the caption of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 222(i) to file a report regarding a housing savings account at the time and in the manner required by such section shall pay a penalty of $10 for each failure unless it is shown that such failure is due to reasonable cause.".

(f) ADJUSTMENT OF BASIS OF RESIDENCE PURCHASED THROUGH USE OF AMOUNTS IN ACCOUNT.—Section 1016(a) of such Code (relating to adjustments to basis) is amended by inserting after paragraph (20) the following new paragraph:

"(21) in the case of a residence the acquisition of which was made in whole or in part with funds from a housing savings account, to the extent provided in section 222(j);".

(g) REDUCTION OF ONE-TIME EXCLUSION.—Subsection (b) of section 121 of such Code (relating to limitations) is amended by adding at the end thereof the following new paragraph:

"(4) REDUCTION OF EXCLUSION FOR HOUSING SAVINGS AMOUNT.—The $100,000 amount in paragraph (1) shall be reduced by any

amount paid or distributed out of a housing savings account of the taxpayer which was not included in gross income of the taxpayer for the year in which it was paid or distributed to the taxpayer (one-half of such amount in the case of a separate return by a married individual).".

(h) CLERICAL AMENDMENTS.—

(1) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 222 and inserting in lieu thereof the following:

"Sec. 222. Housing savings accounts.
"Sec. 223. Cross references.".

(2) The table of section for chapter 43 of such Code is amended by striking out the item relating to section 4973 and inserting in lieu thereof the following:

"Sec. 4973. Tax on excess contributions to individual retirement accounts, education savings accounts, housing savings accounts, certain 403(b) contracts, certain individual retirement annuities, and certain retirement bonds.".

(3) The table of sections for subchapter B of chapter 68 of such Code is amended by striking out the item relating to section 6693 and inserting in lieu thereof the following:

"Sec. 6693. Failure to provide reports on individual retirement accounts or annuities, education savings accounts, or housing savings accounts.".

(i) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1980.

HOUSING AND EDUCATION SAVING S ACCOUNT BILL—REVENUE LOSS ESTIMATES

[In billions]

	1981	1982	1983	1984	198
Housing	$2.1	$2.2	$2.8	$3.2	$3.6
Education	2.4	2.9	3.5	4.1	4.8
Total	4.5	5.1	6.3	7.3	8.4

If the provisions are phased in over three years so that the maximum contribution for each account is $500 in 1981, $1,000 in 1982, and $1,000 for education savings accounts and $1,500 for housing savings accounts in 1983 and thereafter, the revenue estimates are as follows:

	1981	1982	1983	1984	1985
Housing	0.9	1.5	2.4	2.8	3.1
Education	1.2	2.6	2.8	3.3	3.9
Total	2.1	4.1	5.2	6.1	7.0

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By Mr. HART:

S. 2746. A bill to amend the Internal Revenue Code of 1954 with respect to the issuance of mortgage revenue bonds; to the Committee on Finance.

MORTGAGE REVENUE BONDS

● Mr. HART. Mr. President, in recent months, our economic statistics have been sobering. Unemployment rates are topping 7 percent; the annual inflation rate is expected to exceed 18 percent and the housing starts have plummeted. Choked by soaring interest rates, the housing industry estimates that annual starts for 1980 will fall close to the 1 million mark—a level not reached since the recession of 1974–75.

We simply cannot allow the impact of these economic forces to ripple through our economy unchecked.

Of particular concern is the serious decline in housing starts. Congress must respond with a program that is timely, effective and does not work at odds with our efforts to balance the Federal budget and reduce Government spending.

Mr. President, I am pleased to introduce today legislation which will promote the targeted use of mortgage revenue bonds over the next 2 years. This legislation will insure that an adequate supply of mortgage money is available at the local level during this time of crisis in the housing industry. It will also provide Congress with the necessary time to determine the impact of tax-exempt mortgage revenue bonds so that a sound Federal policy on their use can be developed.

Under this legislation, the tax-exempt treatment of mortgage revenue bonds for owner-occupied housing would be allowed to continue, with few restrictions, for the next 2 years. Localities would be able to resume the issuance of mortgage revenue bonds, whose proceeds would be used to provide lower interest-rate mortgages to individuals and families whose income is 150 percent or below the median income for a designated area.

This legislation also allows State housing finance agencies to continue to issue tax-exempt mortgage revenue bonds, subject to individual State controls.

In addition, I have proposed that a study be conducted jointly by the Secretary of the Treasury and the Secretary of Housing and Urban Development to determine the impact of mortgage revenue bonds on the housing industry, employment rates, the rate of inflation, and the market for tax-exempt securities. It is my hope this study will provide Congress the necessary information to develop, in future legislation, a refined policy regarding the tax-exempt treatment of mortgage revenue bonds.

Importantly, this legislation does not affect the issuance of tax-exempt mortgage revenue bonds whose proceeds are targeted for multifamily rental housing. This country is experiencing a severe shortage of this type of housing. At minimum, efforts currently in place should remain untouched.

Further, it is not my intention to spur activity for speculation in the housing industry. This legislation authorizes the proceeds of mortgage revenue bond issuances to finance only owner-occupied residences.

Mr. President, I do not generally endorse the concept of selective short-term solutions to general economic woes. Too often this practice leads to the uncontrolled proliferation of programs which work to the eventual disadvantage of the affected industry and the Nation as a whole. That is certainly not my intention. What I do propose, pending eventual resolution of this complex issue by Congress, is to fill the void opened in April 1979 with introduction in the House of legislation which would effectively bar use of mortgage revenue bonds.

I share the concern of many of our Nation's lenders about the potential impact of expanding Federal assistance in a traditionally competitive conventional market. I am equally concerned about the increasing gap between family income levels and the opportunity for homeownership. I believe tax-exempt mortgage revenue bonds can be a potent weapon in helping us meet the housing needs of Americans. But clearly, Congress must strike a balance that insures that mortgage revenue bonds are used as a supplement, not a substitute, for traditional financing mechanisms.

I realize there have been inadequacies in the use of tax-exempt mortgage revenue bonds over the last several years. This is the primary reason they are the subject of congressional discussion. And while I do not advocate or endorse their unrestricted use, I believe they provide an effective means for States and localities to provide lower interest rate mortgages for many of our Nation's home buyers.

Mortgage revenue bonds make efficient use of private investment and Federal assistance without spurring the creation or enlargement of Federal bureaucracy. Often, Mr. President, the availability of mortgage money at reasonable interest rates is the difference between owning a home and not. In my home State of Colorado, mortgage revenue bond programs have helped thousands of people obtain housing.

Mr. President, I am not proposing a program which will win the battle but lose the war. This legislation will not solve the continuing controversy over the proliferation of tax-exempt mortgage revenue bonds. It does, however, represent a positive alternative to our current dilemma, and a starting point for further congressional action. It will help insure the continued viability of many homebuilders.

I look forward to early consideration of this legislation, and to working with my colleagues to develop a comprehensive Federal policy on the tax treatment of mortgage revenue bonds.●

By Mr. INOUYE (for himself, Mr. CANNON, Mr. MAGNUSON, Mr. LONG, Mr. HOLLINGS, Mr. WARNER, and Mr. PACKWOOD):

S.J. Res. 176. A joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning October 5, 1980, as "National Port Week," and for other purposes; to the Committee on the Judiciary.

NATIONAL PORT WEEK

● Mr. INOUYE. Mr. President, I introduce and send to the desk a joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning October 5, 1980, as "National Port Week."

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 176

Whereas, the past development of the public ports of the United States is the result of a fruitful partnership in which State and local authorities have assumed major responsibilities for land-based port development with the Federal Government constructing and maintaining the navigable waterways and harbors of the United States;

Whereas, the economic, social and cultural developments in the history of the port cities and States has mirrored the conditions of the ports of the United States;

Whereas, ports serving the United States waterborne commerce are responsible for the creation and continued employment of more than one million workers and an annual contribution in excess of $56 billion to our Nation's economic well-being;

Whereas, the development of our Nation's ports is indispensible to our foreign trade and vital for the achievement of a favorable balance of trade;

Whereas, viable United States ports are necessary to national security and the maintenance of an adequate defense;

Whereas, the continued development of the ports of the United States is being adversely affected by economic, physical, and other factors, including the problems associated with the adequacy of the harbors and channels;

Whereas, the ability of the public ports to continue their vital contribution to national security and welfare may be in question; and

Whereas, there is an urgent need for continuing attention to the needs of the public ports of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States, is authorized and requested to issue a proclamation designating the seven-day period beginning October 5, 1980, as "National Port Week" and to invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

SEC. 2. The Secretary of Commerce shall report annually to Congress on the conditions of the public ports of the United States, including, but not limited to, their economic and technological development, the extent to which they contribute to the national security and welfare, and those factors which may impede the continued development of the public ports of the United States.●

ADDITIONAL COSPONSORS

S. 1858

At the request of Mr. BAYH, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1858, a bill to amend title 28, United States Code, to provide that the Federal tort claims provisions of that title are the exclusive remedy in medical malpractice actions and proceedings resulting from federally authorized National Guard training activities, and for other purposes.

S. 2079

At the request of Mr. BAYH, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 2079, a bill to improve the administration of the patent and trademark laws by establishing the Patent and Trademark Office as an independent agency, and for other purposes.

S. 2521

At the request of Mr. DOLE, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 2521, a bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of royalty owners under the crude oil windfall profit tax.

S. 2623

At the request of Mr. GOLDWATER, the Senator from Iowa (Mr. CULVER), the Senator from California (Mr. HAYAKAWA), and the Senator from Colorado (Mr. HART) were added as cosponsors of S. 2623, a bill to incorporate the U.S. Submarine Veterans of World War II.

SENATE JOINT RESOLUTION 159

At the request of Mr. DOLE, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of Senate Joint Resolution 159, a joint resolution disapproving the action taken by the President under the Trade Expansion Act of 1962 in imposing a fee on imports of petroleum or petroleum products.

SENATE JOINT RESOLUTION 168

At the request of Mr. DOLE, the Senator from Florida (Mr. STONE) was added as a cosponsor of Senate Joint Resolution 168, a joint resolution designating July 18, 1980, as "National POW-MIA Recognition Day."

SENATE RESOLUTION 440—ORIGINAL RESOLUTION REPORTED TO WAIVE THE CONGRESSIONAL BUDGET ACT

Mr. JACKSON, from the Committee on Energy and Natural Resources, reported the following original resolution, which was referred to the Committee on the Budget:

SENATE RESOLUTION 440

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such act are waived with respect to the consideration of S. 2443. Such waiver is necessary because S. 2443, the West Valley Demonstration Project Act, authorizes appropriations for fiscal year 1980.

SENATE RESOLUTION 441—ORIGINAL RESOLUTION REPORTED TO WAIVE THE CONGRESSIONAL BUDGET ACT

Mr. JACKSON, from the Committee on Energy and Natural Resources, reported the following original resolution, which was referred to the Committee on the Budget:

SENATE RESOLUTION 441

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such act are waived with respect to the consideration of H.R. 5892. Such waiver is necessary because H.R. 5892, the Wind Energy Systems Research, Development, and Demonstration Act of 1979, authorizes appropriations for fiscal year 1980.

SENATE RESOLUTION 442—ORIGINAL RESOLUTION REPORTED TO WAIVE THE CONGRESSIONAL BUDGET ACT

Mr. ROBERT C. BYRD (for Mr. KENNEDY), from the Committee on the Judiciary, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 442

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such act are waived with respect to the consideration of S. 2377, a bill to authorize appropriations for the Department of Justice for fiscal year 1981, and for other purposes. Such a waiver is necessary to allow consideration of the Department of Justice Authorization bill to be concluded.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1980 deadline, because the Department of Justice and the Committee on the Judiciary had to resolve a series of substantive, outstanding issues before Committee action on S. 2377 could be concluded.

The effect of defeating consideration of this resolution will be a total curtailment of Department of Justice fiscal year 1981 operations.

AMENDMENTS SUBMITTED FOR PRINTING

INTELLIGENCE OVERSIGHT ACT OF 1980—S. 2284

AMENDMENT NO. 1774

(Ordered to be printed and to lie on the table.)

Mr. MOYNIHAN submitted an amendment intended to be proposed by him to S. 2284, a bill to strengthen the system of congressional oversight of intelligence activities of the United States, and for other purposes.

COMMISSION ON CIVIL RIGHTS AUTHORIZATIONS, 1980—S. 2511

AMENDMENT NO. 1775

(Ordered to be printed.)

Mr. HELMS proposed an amendment to S. 2511, a bill to amend the Civil Rights Act of 1957 to authorize appropriations for the U.S. Commission on Civil Rights for fiscal year 1981.

AMENDMENT NO. 1776

(Ordered to be printed.)

Mr. HELMS proposed an amendment to S. 2511, supra.

ADDITIONAL STATEMENTS

MICRONESIA

● Mr. INOUYE. Mr. President, a recent "60 Minutes" program contained a report on Micronesia. As is frequently the case, given the limitations of time and the desire to make a point, that program failed to do justice to the totality of Micronesia and the Micronesian people.

To assist in that effort, I ask unanimous consent to have a letter from President Nakayama and his staff's comments on the transcript of the "60 Minutes" program printed in the RECORD.

The material follows:

FEDERAL STATES OF MICRONESIA,
Kolonia, Ponape, Eastern Carolina Islands, April 17, 1980.

Hon. DANIEL K. INOUYE,
Senator,
Washington, D.C.

DEAR SENATOR INOUYE: Thank you for soliciting my comments on the "60 Minutes" program on Micronesia.

During the past 25 years, I have spent a great deal of time in various parts of the United States. I studied and lived in Hawaii for several years. I have visited San Fran-

cisco, New York and Washington on many occasions for both official and personal reasons. Throughout these years, I have read much about the American people, their history and their political, social and economic makeup. I have met many Americans, some of whom are my very close friends.

Yet with all of this experience, all of this contact, I would not presume to try to describe the United States in a twenty minute segment of a television program. No matter which pieces of the puzzle I chose to emphasize, I could not do the whole picture justice. A nation, any nation, is simply too complex to describe with any degree of accuracy in twenty minutes. After watching a gangster movie, an unsophisticated foreigner might well conclude that all Americans are gangsters. After watching the 60 Minutes program on Micronesia, an unsophisticated American might well conclude that all Micronesians are fat and lazy and sit around gorging themselves on U.S.D.A. food at the U.S. taxpayers expense. Neither portrait is accurate, of course, but the difference is that the unsophisticated foreigner will get many opportunities through the media to expand his perceptions of the United States, while the American may well never see another program about Micronesia.

I fault the program as much for what it left out, as for what was included. Where is the footage portraying the character of our people or the footage about our customs and traditions and arts. Where is the description of our years and years of political struggle toward self-government. Where is the film depicting the enormous effort of Micronesians and Americans to develop these islands socially, economically and politically. 60 Minutes chose to ignore all of this and instead concentrated primarily on one federal program, the feeding program. The irony is that the very federal program chosen to portray Micronesia was a program vehemently opposed by many of us on the basis that it was unneeded, except in isolated emergency and disaster situations, and would create a dependence which we as a people did not want. We ultimately won this fight and the program was discontinued. However, we are now being ridiculed and criticized for a program which was forced upon us in the first place.

I asked my staff to review a transcript of the "60 Minutes" program for inaccuracies of fact and emphasis. Attached is a document setting forth their conclusions. This document was prepared on very short notice. The items stated in the document as fact are true to the best of our belief.

Thank you very much for giving us the opportunity to comment on the program. Our Washington Liaison Officer will be happy to supplement these comments at your request.

Sincerely,

TOSIWO NAKAYAMA,
President, Federated States of Micronesia.

COMMENTS

The following are comments on various statements made during the CBS Television Network "60 Minutes" program on Micronesia which was broadcast on Sunday, December 23, 1979.

60 Minutes: "Micronesia is a collection of 2,000 islands scattered over 40 million square miles of the Pacific, all wrapped up as a package. . . ."

Fact: Micronesia covers an area of about 2 million square miles, not 40 million. Forty million square miles is closer to the size of the entire Pacific Basin from the West coast of the United States to Japan.

60 Minutes: "This represents, perhaps too graphically, what this story is about. A Micronesian who is not employed and has no intention of ever being employed is feeding his favorite pig prime U.S. beef, a gift from the United States. The pig obviously enjoys his Big Mac, and his owner obviously prefers pork. How come this man, and 120,000 other Micronesians, are part of a welfare state he never dreamed of, never wanted, and yet is now hopelessly addicted to? . . ."

Fact: No Micronesian in his right mind would feed his pig good U.S.D.A. beef; he would eat the beef and feed the pig coconut instead. Our guess is that the sequence was staged. The boy in question is not unemployed, he is self-employed or family employed. He is a farmer.

60 Minutes: ". . . Policy changed from benign neglect to a kind of malignant generosity. The delicate relationship between the people and their land and lagoons was finished. A paradise of welfare had begun. And we swamped these islands with government programs, from Headstart to care for the elderly. Needed or not, they were, by heaven, going to get all the benefits of the New Frontier and the Great Society. This unique, traditional, scattered island society was treated as if it were Inner City, U.S.A. . . ."

Act: The report dwells at some length upon the misapplication and poor administration of some U.S. federal programs. None of us will deny that social and economic disruption has occurred from this. But, Micronesia is not unique. Indeed, it has often been argued that poor administration and management are associated with federal programs in the United States as well. It is a common problem that all of us, both here in Micronesia and in the United States, are working to overcome. I am sure that Mr. Tony DeBrum, of the Government of the Marshall Islands, did not mean his statement regarding the impact of the federal programs for the elderly to be misconstrued as representative of the situation everywhere, especially outside of the District centers. Elderly people in most communities do continue to take care of the children and to teach skills, language, custom, traditions, and legends and still have much responsibility in their clan, village and community.

It is undeniably true that this system is changing and that Micronesia is moving away from its traditional way of life. But surely change is a factor in any society, at any time. It is also true that not all of these changes are for the betterment of the society, but again that is a universal problem of growth and change. We in the Federated States of Micronesia are very cognizant of this and we have, within our National Constitution, sought to provide for the protection and continuation of much of our traditional cultures and values. At the same time, we fully realize the need to bring to our people the benefits and advantages of modern social, economic and political institutions and processes. It is a difficult and often thankless task to try to balance the two.

60 Minutes: "Of the 17,000 paid jobs in Micronesia, 11,000 are government jobs. . . ."

Fact: In 1977, there were about 29,500 paid jobs in Micronesia, slightly more than half of which were government jobs, many of which were held by Americans. The numbers are probably somewhat higher today, but the proportions remain about the same. One of the great failings of the Trusteeship has been the inability of the United States to stimulate a private sector export economy and thus create private sector employment.

60 Minutes: ". . . and on any given day, a third of the work force does not turn up for work."

Fact: That is pure bunk.

60 Minutes: "The government payroll is virtually the only source of income."

Fact: Half of the labor force works for the government and therefore receives its income from the government payroll. The other half of the labor force works for the private sector and receives its income from private sources.

60 Minutes: "When the U.S. Department of Agriculture started handing out food, food production in Micronesia fell in ten years from 33 million pounds a year to one million pounds. So much food is dumped on these islands that Americans and Micronesian officials have given up trying to account for it. This is the supermarket of a housewife's dreams."

Fact: USDA food for general use, as opposed to the school lunch program and food for emergency (natural disaster) use, was only distributed for about three years and has been discontinued. The program may have had some adverse impact on local food production, but probably very little. During the height of the feeding program, FY 1977, food production, excluding marine products, stood at about 28 million pounds. No statistics are available for a comparable period ten years earlier. The line about "the supermarket of a housewife's dreams" is pure fantasy.

60 Minutes: "The cash goes into cars that go from dockside to disaster in months."

Fact: Most cash does not go into cars. Only the more affluent people, a very small portion of the population, can afford a motor vehicle. Vehicles do deteriorate quickly because of the salt spray in the air and the poor quality of the roads.

60 Minutes: "These islands are a bitter perversion of an old American ideal: two wrecks in every garage, and a USDA boneless chicken in every pot."

Fact: This statement is attention getting and clever, but not true. Very few people can afford a garage and even fewer can afford two cars. The general feeding program was short lived and has been discontinued largely because of the efforts of Micronesian leaders who opposed it. Even at its peak, the feeding program did not approach putting a USDA boneless chicken in every pot.

60 Minutes: "Micronesia can feed itself and a good part of the world right from its own doorstep. These waters run with great schools of tuna and mackerel. But it's the Japanese fishing fleet that forages here. The Micronesian boats have been pulled up for good. And when the United States tried to do something about it—get commercial fishing going in the smallest way—it becomes another costly disaster."

Fact: A great deal of tuna is caught by foreign fleets in Micronesian waters. A great deal is caught by the purse seine fleet of the Americans as well. Foreign fishing within 200 miles of the Micronesian islands is licensed by the Micronesian governments and a fee is paid for access, just as access fees are charged foreign fleets which fish within 200 miles of the United States. This year, for example, the Federated States of Micronesia will collect $2,000,000 from Japan, $60,000 from Taiwan and an as yet to be negotiated amount from the American Tunaboat Association.

Micronesians fish their waters in small vessels and supply the local markets with fresh fish. As demand increases, this type of small scale commercial fishing expands as well. We are aware of no effort by the United States to directly promote commercial fishing.

60 Minutes:

"Even clearly noble enterprises have a nasty habit of becoming abject bureaucratic disasters. A multi-million-dollar hospital for the island of Yap gets built, but someone forgets that there's no sewage system. So it sits, about as useful to Yap as a space program."

Fact: The sewer system for the Yap hospital was not forgotten. There were delays in its construction, however, which resulted in the rest of the hospital being completed first.

60 Minutes: "Yap's gross national product is near zero, yet they spent a million and a half dollars on beer last year; that's $200 per man, woman and child. Beer cans have become such a litter problem that the government is now paying two cents a can for them. Stone disks were the old symbols of wealth; mounds of beer cans are the new symbols.

Fact: Yap's Gross Domestic Product was estimated to be $6,237 million in 1977. Perhaps that does seem to be close to zero when compared with the United States. But then there are only about 9,000 people on Yap. This figure does not include a value for subsistence fishing and farming, activities in which the majority of the work force is engaged. In 1977, the most recent year for which figures are available, Yap consumed a total of $309,689 worth of beer, not $1.5 million. That works out to a modest per capita consumption of $34.40 rather than $200.

60 Minutes: "Something like $200 million goes into Micronesia every year on nearly 170 different federal projects. . . ."

Fact: If "Federal projects" means federal programs as implied, then this information is not correct. In 1979–1980, according to the Trust Territory Government, there were only 70 federal programs operating in the Trust Territory for a total of $24,236,000. Furthermore, Federal program assistance varies from one year to the next. It is not an "every year" phenomena as the report states. The $200.0 million quoted as federal project expenditures is probably from the Federal Information Exchange System, "National and State Summaries-Agency Funds." This expenditure trend has increased from $89.0 million in FY 1970, to $200.0 million in FY 1978, but this is an increasing trend, not a constant annual amount of $200.0 million.

More important, however, is the fact that the $200.0 million or so is spent by all Government agencies throughout Micronesia. Much of this money actually goes to U.S. expatriate payrolls, U.S. defense payments, FAA, CAB, customs, etc. Thus, the aggregate figure is not representative of U.S. direct expenditure in Micronesia.

60 Minutes: "Where did all the money go? Well, on Ponape we ran into a man who may be the most frustrated person in these islands—Lee Hoskins, a retired Army intelligence officer, who now runs the Micronesian Bureau of Investigation. Lee Hoskins: My estimates, based upon the investigations that I have done, would indicate that at least 10 cents on the dollar is perhaps lost through some form of white collar crime or corruption; that another significant portion of that dollar, perhaps as high as 60 or 70 cents, is not totally wasted but badly abused in mismanagement; and that perhaps the remaining 20 cents or so will pass through to something effective that you can put your finger on as an advancement or development."

Fact: Lee Hoskins was formerly the Director of the Micronesia Bureau of Investigation. One of the major functions of the Bureau was to investigate white collar crime. According to Mr. Hoskins' supervisor, the Trust Territory Attorney General, Mr. Hoskins was only able to develop sufficient evidence for successful prosecution in one case during three years with the Bureau. According to other sources, the number of prosecutions was closer to seven. In any event, Mr. Hoskins' investigations were not very productive and his contract was not renewed upon its expiration. Mr. Hoskins readily volunteered information about corruption in government to all who would listen, but was singularly unsuccessful in proving it, judging from the comments of his co-workers and from the rate of prosecutions.●

THE NATION'S STRATEGIC FUTURE AND THE U.S. MARINES

● Mr. BAYH. Mr. President, I want to call to the attention of my colleagues an article which appeared in the Washington Star last Friday by Mr. John J. Fialka on the new dimension of importance to our national security represented by a rapid deployment force of long-standing, the U.S. Marine Corps. Two of the weapons systems discussed by Mr. Fialka, a highly mobile antitank vehicle for a light armored corps and the AV8–B light attack aircraft capable of vertical and short takeoffs and landings near the forward edge of battle, are unorthodox items of military hardware which I have indicated my support for on March 20 in a statement submitted to the Senate.

Clearly, the kind of innovation which is being demonstrated by the USMC provides this Senator with confidence that, despite the other problems plaguing our military, the Marine Corps will be fully capable of playing its role in meeting challenges to America's vital security interests in the future. Mr. Fialka's article on today's corps is blunt and to the point in its explanation of the USMC's strong base of support here in the Congress. As the USMC's Commandant Barrow indicates:

I think the American public still sees the Marine Corps as sort of a bastion of the old-fashioned virtues that still apply, that are still deeply embedded in the American psyche more than most people want to admit. It's out there in the hinterlands in large measure.

Mr. President, I agree with General Barrow and request that a copy of Mr. Fialka's article be printed in the RECORD.

The article follows:

THE NATION'S STRATEGIC FUTURE MAY BE RIDING ON SKILL OF CORPS

The basic thing to remember about the Marine Corps is that in the minds of its leadership it is somewhere between being an independent, quasi-religious body and a branch of the Navy.

In religious circles, heresies take the form of ideas. In military circles, they sometimes take the form of hardware, hardware that does not represent orthodox thinking in the Pentagon.

Consider the idea that a light tank, carried into battle by helicopter and capable of moving up to 70 mph, might be one of the best ways for the United States to come to the defense of the oil fields in the Middle East.

Later this month some 20 light, tank-like armored vehicles hastily borrowed from the armies of Brazil, Canada, Switzerland and elsewhere will be tested in desert warfare maneuvers at the Marine base at Twenty-nine Palms, Calif.

The Marines, with the apparent blessing of Defense Department leaders, are suddenly in the market for some 600 such vehicles. When the tests are completed and the right vehicle is chosen, the Corps hopes to give about half of them to the Marine brigade that will soon have its heavy equipment stored in cargo vessels at Diego Garcia in the Indian Ocean.

The Marine helicopters that would carry the light tanks are CH–53s, close cousins of the Navy helicopters used in the aborted raid in Iran. The chopper-light tank combination may prove to be a crucial team of equipment if it ever came to attempting U.S. military operations in the deserts of the Middle East.

A lot of the nation's strategic future could be riding on the wisdom and the skill of the Marines as they approach their new role in the Rapid Deployment Force.

"It's sort of an exciting time to be a Marine and to be talking about actually doing these things," explained Maj. Gen. Alfred M. Gray Jr., director of the Marine Development Center at Quantico, Va., which has been working on plans for a new family of light tanks for seven years.

The idea of the light tank began as a true heresy. It was unacceptable to Defense officialdom and considered anathema by the "Armor Mafia," a powerful consortium of Army armor experts who saw the Marine venture as a threat to the 60-ton XM–1 battle tank now coming into production.

The Marine Corps persisted, however, arguing that a 12 to 15 ton armored vehicle, light enough to be carried by helicopter, would solve a tactical mobility problem in roadless, remote areas. Four or five such tanks loaded in the cavernous body of an Air Force C–5A transport—which can carry only one XM–1 at a time—would also help solve the strategic mobility problem.

It would constitute what Gen. Gray calls a "force multiplier," a quick way to develop a substantial military presence in the early stages of a crisis. Gray says the Marines are considering a number of tank-killing weapons that might be fitted on such vehicles, ranging from cannons to wire-guided missiles.

There are two ways to defeat heavily armored forces, according to Gray. One way is to stand up to them in a "war of attrition." The other way is to engage in "maneuver warfare," a less orthodox style of battle where the enemy is assaulted by fast-moving forces coming from unexpected directions.

MANEUVER WARFARE

The Germans defeated more heavily armored French forces that way in World War II and the Israelis have used the tactic with devastating success against the heavy tank forces of Syria and Egypt. The idea "is not foreign to the Marines," insists Gray. "You could say that the Inchon landing was a classic in maneuver warfare."

Another increasingly popular Marine heresy is the British-built AV8B Harrier. It is a jet fighter-bomber that can take off and land vertically. The Marines want the Harrier for close air support and added survivability in case nearby airports are attacked.

The idea has had massive opposition. Navy's "Pilot Union," the admirals who protect the big carriers, opposed the AV8B as a threat to budgets for high performance carrier aircraft. Russell Murray II, asistant secretary of defense for program analysis, is said to consider the Harrier to be downright sacrilegious. Every year, the Office of Management and Budget cuts Harrier development funds out of the budget. But Congress always puts them back.

Now that the idea of a light tank has taken off with the evolution of the RDF, the Marines are convinced that the AV8B will not be far behind. They see signs that the Defense Department may soon approve a plan in which the Marines and the British combine in a joint purchase of the advanced version of the Harrier.

Military observers on the Hill and elsewhere see the Marine "heresies" and the RDF as a kind of chicken-and-egg situation. Without the RDF, a lot of the Marine concepts would have been quietly smothered somewhere in the Pentagon. Without the Marines' willingness to experiment and innovate, they might have been passed over for the leadership of the RDF, a move that would have been a disaster to the Corps.

THE NAVY'S INFANTRY

On paper, the Marines are the Navy's infantry, a body of 185,000 men—slightly larger than the British Army—divided into three division-like Marine Amphibious Forces. Each MAF has its own air wing.

In reality, the Marines are closer to being Congress' army because the real clout behind the Corps, the force that gives it the power to occasionally buck the Pentagon, is on Capitol Hill. It includes a fairly close-knit group of 10 senators and 31 representatives and a slightly larger group of congressional staffers, all of whom are former Marines.

Marines also have strong patrons on the military committees. Consider what hap-

pened recently when, in response to strong pressures to integrate more women into the services, the Army overhauled its equipment, instituted "unisex" basic training and even redefined combat to allow women to join all but a few front-line units. To the extent that the law permitted it, the Navy and the Air Force buckled under the same pressures, but the Marines went to Congress.

"Barrow (Gen. Robert H. Barrow, the Marine commandant) just came in, no notes or anything. He got very frank about problems in personnel," said Rep. Robin L. Beard, R-Tenn., recalling Barrow's appearance before the House Armed Services Committee.

"The Marine Corps was going to make it work, but they were not going to go the numbers route for the sake of numbers. Barrow said that the essential nature of the Corps was in the combat arms and that he was not going to train men and women together in basic training for that reason. For the first time I can remember in eight years on the committee, he received a round of unanimous applause. I've never seen the committee applaud anyone," said Beard, a major in the Marine Reserves.

"I think Congress' affinity for the Marines has to do with the fact that the Corps doesn't have very many high ranking billets in the Pentagon. Most of those are taken by the Navy," explains Jim Webb, a former Marine captain and author of the Vietnam War novel, "Fields of Fire."

"The result is that most of the Marines we see are not diplomats or bureaucrats but real warriors. Congress likes that. Congress likes the Patton types," said Webb, currently minority counsel to the House Veterans Affairs Committee.

DEALING WITH CRITICS

The Marines spend a considerable amount of effort cultivating their fans on the Hill, but they also seem to devote an inordinate amount of time to dealing with the Corps' critics.

In 1976, for example, Dr. Jeffrey Record, a military analyst, co-authored a Brookings Institution book that said that the Marine Corps was too large, too light to fight in armored warfare, too heavily involved with aircraft and too wedded to an outmoded, amphibious style of warfare.

To Record's astonishment, the Marine Corps hierarchy began to work on many of the weak points mentioned in the book. There was a great deal of interchange between Record and his co-author, Martin Binkin, and the younger Marine generals.

Record found himself becoming absorbed with some of the Corps' more experimental programs, particularly the one involving the light tank. That was handy for the Corps, because when Record later joined the staff of Sen. Sam Nunn, D-Ga., he helped promote the funding for the experiment.

Now it might be fair to say that Record has become a believer. "The Marine Corps has reflected a propensity for doctrinal and technological innovation and a willingness to experiment that exceeds that of any other service," says Record. "There's just a lot more thought about how you spend that one Marine dollar."

The power of the Corps to inspire belief is awesome. Michael Herr, author of "Dispatches" wrote this about the Marines at Khe Sanh:

"The belief that one Marine was better than ten Slopes saw Marine squads fed in against known NVA platoons, platoons against companies, and on and on, until whole battalions found themselves pinned down and cut off. That belief was undying, but the grunt was not, and the Corps came to be called by many the finest instrument ever devised for the killing of young Americans."

If you ask Gen. Barrow where the Corps' power comes from, he will say that while the Marines do have a strong base in Congress, it is not really congressmen speaking but the people they represent.

"I thing the American public still sees the Marine Corps as sort of a bastion of the old-fashioned virtues that still apply, that are still deeply embedded in the American psyche more than most people want to admit. It's out there in the hinterlands in large measure."

At the same time, though, he insists the Marines are becoming "very, very innovative." Barrows admits that there seems to be "an inconsistency" there, but a lot of Marines and many of their supporters in Washington believe it.

Are the Marines a religion? "I'm not saying we're a religion," said Barrow, "but maybe we're religion-like."●

THE DEVELOPMENT OF ENERGY MINERALS LOCATED ON FEDERALLY OWNED LANDS

● Mr. JACKSON. Mr. President, one of the key pieces to the solution of our energy puzzle is the development of energy minerals located on federally owned lands. It has been estimated that as much as 60 percent of our total energy supplies are located on these lands. Access to Federal land and permission to develop energy resources on them, once access is gained, have been the topic of much discussion in recent months. However, the history of recent congressional attention and action goes back to the report of the Public Land Law Review Commission in 1970.

The Commission was chaired by the former chairman of the House Committee on Interior and Insular Affairs, Wayne Aspinall. It was made up of prominent Americans from all over the country, but included a number of members from Western States where most public lands occur. The Commission's report detailed a number of recommended revisions in the law, many of which have now been enacted or are pending before the Congress.

Principal among these are the Federal Land Policy and Management Act of 1976 which established an overall framework for management of public lands based on the principals of multiple use and sustained yield and parallel legislation for national forests, the Nation Forest Management Act of 1976.

Congress has addressed revision of the mineral leasing laws within the framework of these two acts. In 1976, the Federal Coal Leasing Amendments Act became law, followed by some additional changes in 1978.

Currently pending before the Senate are the Geothermal Steam Act Amendments of 1980 and the Federal Oil and Gas Leasing Act of 1980.

The underlying principal of all of this legislation includes a recognition that the multiple use, sustained yield concept of Federal land management required a much greater level of Federal land use planning. This planning in turn requires a delicate and difficult balancing of competing demands for the land. Within the context of mineral leasing, this has meant balancing access and development, with diligence, fair market return to the public and other uses of the lands. The increased amount of control over Federal lands necessitated by the rapid expansion in competing demands has resulted in various degrees of complaint throughout the public lands States. In its most extreme form this complaint takes the form of so-called sagebrush rebellion. With respect to energy minerals, this "rebellion" is manifested by complaints about access to and development of energy resources on Federal lands.

Early this year, I asked the Department of the Interior a number of questions aimed at establishing the facts with respect to its performance on energy mineral leasing and permitting in recent years. I will summarize some of the key points brought out by Secretary Andrus' response to my inquiries. However, I shall submit for the RECORD at the conclusion of my remarks a copy of my letter of January 18 and the Secretary's reply.

In general, about 400 million acres of Federal land are open to energy mineral development. At present 100 million acres are under lease. Of that, only 6 million acres are actually in production. The conflict between energy development and wilderness designation has thus far resulted in 123 million of the original 174 million reviewed for wilderness being released from further study. Forty-one million are still being inventoried, while only 10 million acres, or about 6 percent have been designated as wilderness study areas. Moreover, only about 1 percent of oil and gas and geothermal leases have "no surface occupancy" stipulations.

In oil and gas, there are 116,800 outstanding oil and gas leases of which 11 percent are in production. It is estimated 75 to 80 percent of leases issued never produce drilling proposals and those that do, do so in the last 2 years of the lease. Of the 3,879 applications for permits to drill filed in 1978, Interior processed 3,588. Less than 10 percent were rejected.

In geothermal, the processing time for lease applications has been reduced from 23 months to 8 months. Of the 1,292 outstanding geothermal leases, only three are in production. The GAO recently found that 39 percent of the known geothermal resources areas have been offered for lease since the program's inception in 1974. This is a high proportion when one considers all the competing demands on the land and the Department's basic mandate to manage the lands consistent with the multiple use sustained yield principal.

In coal, the Department has designed and implemented a new leasing program which has thus far withstood successful challenge in the courts, a feat which the previous administration was not able to accomplish. The result is a coal leasing schedule with eight planned sales through 1983, beginning with tract designation for the first sale in October of this year. Fourteen emergency sales have been held since the new program was announced in June of 1979. The sales have facilitated production from ongoing operations. At a time when there is an excess coal production capacity in the Nation of over 100 million tons per year, production from Federal lands has increased almost 50 percent from 40 million tons in 1976 to 59.14 million tons in 1979. Approximately 17.36 billion tons of coal

are currently under lease. The Department's program will result in 40 billion additional tons being cleared by the BLM planning system as suitable for leasing by 1984.

Mr. President, I submit that these figures show that the Department of the Interior is to be commended for making public land available for energy mineral development. In spite of the difficult task of establishing a balancing system which Congress has mandated as the basis of public land management for the future, Interior has succeeded in making energy minerals available and permitting development once leases are issued. There are certainly isolated examples of extended delay in issuance of leases or permits. However, in most instances, these delays have been caused by competing alternative uses of the lands, the presence of endangered species, legal battles, or other factors.

I commend Secretary Andrus for his effort to make the leasing programs work within the context of the Federal land use planning mechanism. If our grandchildren are to experience the wonders of our national parks, camp in our wilderness areas, have trees for their houses, grass for their cows, and energy to fuel their economy, Federal land, which constitutes approximately one-third of the Nation, must be managed responsibly. I think that the Department of the Interior, under Secretary Andrus' leadership has performed this task well.

The letters follow:

ENERGY RESOURCES
AND MATERIALS PRODUCTION,
January 18, 1980.

Hon. CECIL D. ANDRUS,
Secretary, Department of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: Our increasing reliance on imported sources of energy has led to a reassessment of the pace of development of our domestic resources, especially those on Federal land.

It has been estimated that as much as 56 percent of our geothermal resources are located on Federal lands. In addition, a significant percentage of our oil and gas reserves are located on Federal property.

Recently, there have been assertions that the Federal government is not permitting ready and sufficient access to these lands so that they might be developed. Also, it is charged that even when lands are made available, development is not permitted.

The Committee on Energy and Natural Resources has before it bills which address oil and gas and geothermal energy resources on federal lands. During its consideration of these bills, the Committee would benefit from answers to the enclosed set of questions. This information will also give us a much more objective set of measures as to Federal policy on access to and development of Federal lands.

Sincerely,

HENRY M. JACKSON,
Chairman.

QUESTIONS ON ACCESS

1. How many acres of the Federal lands and reserved mineral estate are available for oil and gas geothermal leasing?

2. How many acres are presently under oil and gas and geothermal leases? How many leases are in effect? What is the production from them? How many are producing or producible? What portion of the leases have "no surface occupancy" stipulations?

3. What portion of the "overthrust belt" is available for oil and gas leasing? How much has been leased?

4. How many acres are being withheld from leasing for oil and gas and geothermals by withdrawals, land use planning decisions, wilderness review, legislative prohibitions, or for other reasons? How many acres have been restored to leasing as a result of the withdrawal review program under FLPMA?

5. What is the trend in leasing—ie. how many acres have been leased and how many leases issued in each of the past 3 years compared to 10 years ago? What is BLM doing to keep pace with the trend?

6. Is there any serious problem with the flow of lease issuance or other related leasing activity that is restricting leasing activity? If so, what has BLM done and plan to do to rectify the problem, especially in view of a tight national energy picture? Supply all aging analysis of all pending applications for oil and gas and geothermal leases, and for all applications more than one year old, the general reason for non-issuance.

7. Is there anything BLM could do to increase the number of leases issued such as offering more acreage, reject fewer applications or simplify the procedures required? If such an increase was possible, would more oil and gas production result?

8. Would more manpower and money help and if so how would it be used and what results could be anticipated? Please supply us with current manpower and funding levels.

9. What is the status of wilderness review under section 603 of the Federal Land Policy and Management Act of 1976 in the overthrust belt?

10. Please supply a summary of (1) outstanding coal leases, (2) planned lease sales and (3) the status of the coal leasing program.

11. a. Please briefly describe the factors which have affected the development of the coal leasing program since 1971, including the impact of the Federal Land Policy and Management Act of 1976, the Federal Coal Leasing Amendments Act of 1976, the National Forest Management and the Surface Mining Control and Reclamation Act of 1977.

b. How has the Department's implementation of this legislation affected the production of Western coal and industry's ability to use it?

QUESTIONS ON DEVELOPMENT

1. During 1977, 1978, and 1979, how many applications for permit to drill (APD's) on onshore Federal and Indian lands were received?

2. How many of these APD's were approved, approved with modification, or rejected during each year?

3. How many were awaiting final action at the end of each year?

4. What is average period of time required to process an APD to the point where a final decision can be made to approve or reject it?

5. What are the primary factors that presently preclude a more prompt final decision?

6. How many wells actually were commenced in 1977, 1978, and 1979?

7. Of the wells started in 1977, 1978, and 1979, how many were exploratory tests and how many were development wells?

8. How does this present split between exploratory and development drilling compare with that in the past?

9. On average, at what point during the primary term of an onshore lease is the first proposal to drill an exploratory well received?

10. What are perceived as being major reasons that onshore leases are not explored more promptly, and what could be done to promote increased diligence in that respect?

U.S. DEPARTMENT OF
THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 6, 1980.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter responds to the detailed list of questions you raised in your January 18, 1980, letter on the status of energy resource development activity on the public lands.

As you know, western energy mineral development interests frequently charge that the policies and programs of this Department and the Bureau of Land Management (BLM)—and indeed the Federal Government in general—are, in effect, "locking up" the resources of the public lands, preventing them from being expeditiously developed, and thereby frustrating industry efforts to decrease the Nation's dependence upon foreign energy supplies. Industry statements leave the impression that the Department and the BLM have arbitrarily placed vast areas of the West in wilderness protection, restricted access to high-value resource areas, and been dilatory in the processing of lease applications and permits to drill. I appreciate the opportunity to correct the record.

Enclosed are detailed responses to each of the questions you raised in your letter. In several cases, responding fully to your questions required new staff analyses and I appreciate your patience while we completed those analyses.

I want to take this opportunity to summarize some of the key points raised in our responses.

1. Access:

Roughly 400 million acres of Federal land are open for energy mineral development with no significant, or only moderate, restriction to development. At present, approximately 100 million acres are under lease and of that total only 6 million are in a producing status. Some 20 million acres of land in the "Overthrust Belt" are Federally owned. Of that total, 11 million acres are under lease, 9 million under application.

Of the 174 million acres BLM reviewed for wilderness characteristics, under Section 603 of FLPMA, 123 million acres have already been released from consideration. Some 41 million acres are still being inventoried to determine whether they must be designated as wilderness study areas pursuant to FLPMA. About 10 million acres—roughly 6 percent—have been designated wilderness study areas (WSA's). An Interim Management Policy provides that development on leases in WSA's issued prior to passage of FLPMA can continue, restricted in some cases so as not to create impacts greater than before the Act. Exploration and development on new leases is generally permitted as long as it does not degrade the potential of the WSA to be designated should the President so recommend.

In the high-potential Overthrust Belt, BLM has completed its wilderness review. Of the 11.5 million acres under BLM jurisdiction, 10 million have already been released. Only 1.5 milion acres—slightly over 10 percent—have been identified as WSA's.

The FLPMA mandated withdrawal review is underway. An initial inventory of withdrawn lands indicates only roughly 19 million acres have been withdrawn from oil and gas development.

2. Leasing:

There are currently some 116,800 oil and gas leases of which less than 11 percent are producing.

Of the leases issued, 75–80 percent expire without drilling proposals.

Ninety-five percent of the oil and gas leases that do produce drilling proposals do

so in the last two years of the term, many in the last few months.

Only 3 of the 1,292 geothermal leases are producing, although 28 more are considered producible.

"No surface occupancy" restrictions exist on less than 1 percent of all oil and gas and geothermal leases.

3. APD's:

A significant factor in the time required to process applications for permits to drill (APD's) is industry's failure to submit complete applications, not excessive procedural requirements. Another factor is that many APD's are submitted, processed to approval and the wells are not drilled. Over filing of nebulous APD's takes away time that could otherwise be spent on needed APD's.

The number of APD's filed has increased 45 percent in the last five years. USGS and BLM personnel levels have not. Nevertheless, USGS and BLM processed 3,588 of the 3,879 APD's filed last year. Less than 10 percent were rejected. Although USGS approves APD's, BLM must also review them for surface management considerations.

Because of the industry practice of filing more APD's than they eventually drill, USGS estimates at least 20 percent of the APD's it approves never result in the timely drilling of a well. This factor extends the average time required to process an APD.

4. Backlogs:

BLM approves over 11,000 lease applications and roughly 4,000 APD's annually. Few are rejected. Delays occur because of the geographic unpredictability of demand; applicant error; inaction by other agencies; limited funding and personnel; required wildlife habitat, endangered species, cultural resource, and related reviews.

Roughly 7 percent of the APD's filed last year were pending at year's end.

72 percent of the 7,400 oil and gas lease applications backlogged for more than one year are tied up in other agencies, mostly in the Forest Service, and most of these as a result of the RARE II wilderness review process.

The processing time for geothermal lease applications has been cut from 23 months to 8 months. Most of the time involved is for environmental reviews.

5. Coal:

The new coal leasing program is underway, with eight sales scheduled through 1983. I will authorize the first sale and designate the tracts in October of 1980.

14 "emergency" lease sales have been held since I announced the new program June 4, 1979. These sales have been to maintain production, meet contract needs, or to prevent a company from bypassing Federal coal in the course of expansion.

We have made significant progress in making public lands available for increasing domestic energy supplies, but more needs to be done. With budget and personnel constraints likely to get even tighter in the months ahead, we need to further streamline our processing procedures. And, as you know, we are in the process of overhauling the simultaneous oil and gas leasing system to rid it of abuse and fraud potential. We have also proposed legislation (S. 1637) to introduce more competition in the onshore oil and gas leasing system and to introduce new incentives for early exploration and development. We have just issued regulations for geothermal leasing and we expect to be able to double the rate of leasing in the next two years. Legislation is being considered by your Committee which would spur utilization of this energy resource.

My conclusion is that more leasing for its own sake, or simply more land for development will not in themselves increase the development of energy resources. Our central challenge is to get more development from existing and pending leases, to emphasize high prospect areas, to provide expeditious service to applicants, and to ensure that development occurs in an economically, socially, and environmentally acceptable manner.

BLM Director Frank Gregg and his staff will be happy to provide further details on any of the responses to your questions, should you need additional information.

Sincerely,

CECIL D. ANDRUS,
Secretary.

PART I—DEVELOPMENT

1. During 1977, 1978, and 1979, how many Applications for Permit to Drill (APD's) on onshore Federal and Indian lands were received Please refer to Enclosure 1.

2. How many of these APD's were approved, approved with modification, or rejected during each year? Please refer to Enclosure 1.

3. How many APD's were awaiting final action at the end of each year? Please refer to Enclosure 1.

4. What is average period of time required to process an APD to the point where a final decision can be made to approve or reject it?

The last time we conducted a nationwide survey in this respect, it was determined that the average time to process an APD to a decision point was 46 days. However, this survey was made in late 1976. We plan, in the future, to conduct further surveys in February and August of each year. In these surveys, we count elapsed time only from the point when the APD is in condition for consideration. This is not necessarily equivalent to the date that an APD is first filed since many such filings are incomplete and it is necessary to request and receive supplemental information before processing of these APD's is warranted. Unfortunately, many industry critics, when citing the length of the delay experienced, tend to include those periods of time for which they bear responsibility. Enclosed is a letter (Enclosure 2) which responds to this sort of misplaced criticism.

5. What are the primary factors that presently preclude a more prompt final decision?

When the Geological Survey issued NTL–6 in mid-1976, we fully expected that it would be possible to process the majority (95 percent plus) to a decision within 30 days. It was felt that this would provide sufficient time in which to evaluate the technical competence of the plan, carry out our responsibilities under the National Environmental Policy Act, and, in conjunction with the involved Federal surface management agency, to develop any necessary conditions of approval to be imposed on the proposed operation.

However, we did not anticipate that so many operators would fail to comply with the data submittal requirements or that the number of APD's filed would increase so dramatically, i.e., in the last year ending prior to the issuance of NTL–6 (i.e., 1975), only 2,762 APD's were received. Thus, since the issuance of NTL–6, our workload associated with the processing of APD's has increased by about 29 percent. That employment has not increased at the same rate has contributed to the inability to maintain the goal of processing most APD's within 30 days of receiving the complete applications.

When industry suddenly exhibits an intense interest in carrying out an extensive drilling program on lands solely under the jurisdiction of one field office, the number of APD's filed literally can inundate the available staff as well as that of the involved surface management agencies. For the most part, we cannot predict successfully those areas where future industry activity will intensify and, thus, to plan for appropriate shifts of our available manpower resources. We hope to establish joint industry-agency discussions to address early warning, advance planning, and industry input agency budget and manpower planning.

Moreover, since the issuance of NTL–6, new requirements which impact on the processing of APD's have become effective, e.g., mandates for the protection of cultural resources, endangered species, and critical habitats. These considerations have added additional time to the processing of some APD's where problems of this type are encountered although it would be difficult to conclude, in light of the percentage of APD's approved (see enclosure 1), that these considerations have prevented development.

The wilderness related studies of the Forest Service and the Bureau of Land Management have also caused a delay with respect to certain APD's. Other APD's can, because of public opposition or unique operating conditions (such as the anticipation of encountering abnormally high presures or gas containing a toxic concentration of hydrogen sulfide), require a more intensive review than the usual APD and, in most instances, a significantly greater degree of documentation in the related environmental assessment. Once the first major snowfall of the winter season occurs, the processing of APD's filed for proposed well locations in areas of higher elevation and which are remote from existing roads and/or subject to difficult topography often must be delayed until the following spring. This is due to the inability of the Geological Survey and the surface management agency to carry out an onsite inspection of the proposed drillsite and access route.

It would also be fair to state that one of the principal factors which contribute to our inability to process APD's more quickly is one that has been interjected by the actions of industry. Many operators are so intent on maintaining a backlog of approved APD's sufficient to meet all possible future planning contingencies that they routinely file a large number of APD's at periodic intervals without knowing whether the drilling of any particular well actually will be undertaken at a future date.

However, there is no way for us to determine which of these wells is likely to be drilled. We are of the opinion that a significant amount of our available manpower resources is being consumed by the processing of nebulous APD's. As you will note from the tabulated data prepared in response to question Nos. 1, 2, 3, 6, and 7, the Geological Survey approved or approved with modification some 10,016 APD's during 1977. 1978, and 1979. Yet during that same period, only 7,883 new wells actually were commenced. This indicates that aproximately 20 percent of the effort now expended in the processing of APD's is wasted because of the industry's current filing practices. If this were discontinued or substantially abated, it is not unreasonable to conclude that we would be able to reduce the present average time required to process a valid APD by as much as 5 days and perhaps by more.

6. How many wells actually were commenced in 1977, 1978, and 1979? Please refer to Enclosure 1.

7. Of the wells started in 1977, 1978, and 1979, how many were exploratory tests and how many were development wells? Please refer to Enclosure 1.

8. How does this present split between exploratory and development drilling compare with that in the past?

The split in new wells started has averaged 18 percent new exploratory tests and 82 percent new development wells annually over the past three years. In real numbers, this equates to an annual average of 473 new exploratory tests and 2,155 new development wells. When compared to the data for new wells started during calendar year 1972, the percentage of new exploratory tests had declined by about half from 35 percent; however, in terms of real numbers, the total new exploratory tests started has declined by

about 30 percent since only 1,956 total new wells were commenced by 1972.

9. On average, at what point during the primary term of an onshore lease is the first proposal to drill an exploratory well received?

A large number of onshore Federal leases (perhaps as many as 75–80 percent) are relinquished or expire by their own terms without any drilling proposal ever being filed. Drilling proposals are received for a small number of leases (less than 5 percent) during the first two years of the lease, usually as a result of a regional exploratory play by industry on the discovery of oil or gas on nearby acreage. However, the preponderance of all proposals to drill received are filed during the last 2 years of the lease (4th or 5th year for competitive leases and 9th and 10th year for noncompetitive leases) with many such applications not being filed until 30 to 90 days prior to the lease expiration date.

10. What are perceived as being major reasons that onshore leases are not explored more promptly, and what could be done to promote increased diligence in that respect?

The prospective value of onshore Federal lands leased for oil and gas cannot be compared with that of lands on the Outer Continental Shelf and, thus, there is less incentive to explore and develop these lands. This is a recognized fact in that two methods are now utilized in the leasing of onshore Federal lands for oil and gas, i.e., the competitive and the noncompetitive processes. Those lands which are within the boundary of the known geologic structure (KGB) of a producing oil and gas field may be leased only by the competitive process and those outside any KGS that are subject to leasing, are offered for lease via the noncompetitive process. Thus, the lands leased noncompetitively are those which are outside areas of established production and should be considered, in the best of circumstances, as only prospective for the discovery of oil and gas and, in many instances, as rank wildcat acreage.

What many fail to realize about the onshore Federal lands which are leased competitively is that these lands frequently have been leased on one or more occasions in the past. It is not unusual for a well or wells to have been drilled on these former leases to test for the presence of oil or gas in those formations which were productive in wells located on nearby acreage and contributed the information which was the basis for including these Federal lands in a KGS. The results of this drilling have have condemned the acreage as to these formations by the completion of a dry hole or, if production was established, the oil or gas resources were produced to the primary economic limit and the well or wells abandoned. Thus, a significant percentage of the onshore Federal leases which are leased competitively are only prospectively valuable as to deeper, untested horizons and/or the initiation of an enhanced recovery project in the intervals previously exhausted for primary production.

By far the larger percentage of the onshore Federal oil and gas leases in existence as of September 30, 1979, were issued by the noncompetitive process. During the last 6 years for which data is available from the published statistics of the Bureau of Land Management (BLM), a total of 70,939 new leases were issued. Of this total, 68,960 (or 97.2 percent) were issued noncompetitively and only 1,979 (2.8 percent) by the competitive process. Despite the issuance of these 70,939 leases, the number of outstanding leases in effect at the end of this period exceeded that at the beginning by less than 10,000 as 62.607 leases were relinquished or expired by their own terms during that time.

A second factor which we believe contributes to the failure to explore for oil and gas more promptly on leased onshore Federal lands results directly from the noncompetitive leasing process. As shown above, more than 95 percent of all onshore Federal oil and gas rights are leased by the noncompetitive process. The problem we see is not the magnitude of the leases being issued but the fact that the present system requires only a minimal front end investment to acquire a lease, i.e., a $10 filing fee and the first year's rental at $1 per acre or fractional part thereof. Thus, a substantial number of the leases are acquired by speculators who have neither the means nor the intent to explore the leased lands.

It is not uncommon for these people to retain a lease for a year or so in the hope that they will receive an offer to purchase that will result in a profit. If that doesn't occur, they may relinquish the lease or merely permit it to expire by its own terms by failing to submit the next year's advance rental. Other speculators reap a profit preying on the uninformed by assigning to them a portion of their leases for a monetary consideration. For example, a 2,560-acre noncompetitive lease could be subdivided by assignment into 64 40-acre tracts. BLM follows the practice of identifying the first assignment out of a lease as the same number used for the base lease but followd by a "-A." The Geological Survey has observed many leases where the suffix was, for example, "-FF" which would indicated that this was 32nd assignment out of a base lease.

There are a number of provisions in the existing law (Mineral Leasing Act of February 25, 1920, as amended) which encourage the owners of onshore Federal leases to postpone a decision to drill thereon until near the end of the primary term and which permit one to keep a lease in effect beyond said primary term without having achieved production. Specifically, the law now permits a 2-year extension of the lease term if, at the expiration of the primary term, actual drilling operations are then underway to test for the presence of oil and/or gas, even if no oil or gas is discovered. When this provision is applied to a unit area or a communitized tract, it is possible to earn a 2-year extension for several leases by drilling of a single well, since operations conducted pursuant to a unit or communitization agreement are considered to be in behalf of all leases which are committed to the agreement. The termination of such agreements can also result, by law, in a further 2-year extension of the leases due to their elimination therefrom. The law also provides that upon unitization, leases committed thereto, which are in part within and in part outside the unit area, will be segregated at the unit boundary. The portion outside will continue for the remainder of the original lease term but for not less than 2 years following the date of segregation.

Where leases, in their extended term by reason of production in paying quantities, are committed in part to a unit agreement, the portion of the lease outside the unit area which is segregated into a new lease is also considered to be in its extended term by production even in those instances where all producing wells are located on the portion within the unit area. A tightening of some of these provisions may be necessary. The Administration has proposed such a change in the automatic 2-year extension of the lease term.

In view of the foregoing, the present provisions of the law which act as disincentives to prompt exploration and development of onshore Federal leases must be eliminated or significantly reduced if a greater degree of diligence is to be achieved. In order to reduce substantially the acquisition and retention of lease solely for speculative purposes (i.e., by those who have neither the desire nor the financial capacity to drill), the incentive for doing so could be abrogated by adopting procedures that require a greater commitment of capital resources and which would compel lease owners to make decisions sooner to either explore the lease or to relinquish it.

This might be accomplished by separate or a combination of actions such as (1) adopting a leasing procedure which increases the number of tracts that would be offered by the competitive process, (2) shortening the term of noncompetitive leases (now 10 years) to that of competitive leases (now 5 years), (3) increasing the fees required when filing for a lease and for assigning an interest therein, (4) providing for an escalating annual rental rate in the absence of a certain level of exploration expenditures, (5) offering tracts for lease which contain a larger amount of acreage than now permitted by law (currently, noncompetitively leases may contain 40 to 2,560 acres and competitive leases, from 40 to 640), (6) eliminating, if not all, of those provisions which now permit a lease to be extended beyond its primary term without actual or allocated production (in other words, absent such production, the lease would expire at the end of its primary term as is the case with Indian leases), and (7) providing in the lease terms an expressed covenant that would require the drilling of one or more wells within specified period of time after the effective date of lease issuance. The number of such commitment wells could be determined in relation to the amount of acreage included in the lease.

PART II—ACCESS

1. How mny acres of the Federal lands and reserved mineral estate are available for oil and gas and geothermal leasing?

There are about 762 million acres of onshore land in the United States administered by the Federal Government. The government has also retained the mineral rights to an additional 60 million acres. In total, the government administers the mineral rights for 822 million acres. Of this total approximately 500 million acres are available for oil and gas and geothermal leasing. Of the 500 million available acres approximately 100 million acres are restricted by statutory or administrative conditions to such an extent that mineral activity is greatly discouraged, although it sometimes does occur. Because there is no complete government inventory of the availability of Federal land for mineral development, however, these estimates of available lands are quite rough.

2. How many acres are presently under oil and gas and geothermal leases? How many leases are in effect? What is the production from them? How many are producing or producible? What portion of the leases have "no surface occupancy" stipulations?

As of September 30, 1979, there were in existence 118,939 Federal oil and gas leases which included 100,859,357 acres. Of these, 12,355 leases involving 6,454.512 acres were producing oil or gas. In fiscal 1979, these leases produced 153 million barrels of oil, 1.05 trillion cubic feet of gas and 280 million gallons of gasoline and LPG.

Onshore Federal lands contain 1.3 billion barrels or 3.7 percent of the total U.S. measured reserves of oil and 14.5 trillion cubic feet or 6.1 percent of the total U.S. measured reserves of gas. Enclosure 3 is a chart which further details Federal reserves. Of the total 822 million Federal acres. 374 million acres are prospectively valuable for oil and gas.

The total number of oil and gas leases which bear "no surface occupancy" stipulations has not been calculated. but is estimated to be less than one percent.

There are currently 1.206 Federal geothermal leases which include 2.350.875 acres. Of these. three leases are producing. An additional 30 leases are considered producible. Approximately 60 million Federal acres are

considered prospectively valuable for geothermal. Less than one percent of geothermal leases have "no occupancy" stipulations.

3. What portion of the "overthrust belt" is available for oil and gas leasing? How much has been leased?

Geologists do not agree on the eastern, western or southern boundaries of the overthrust belt within the United States.

A soon to be published report by the Bureau of Mines reports that its delineation of the "overthrust belt" in Montana, Idaho, Wyoming and Utah contains 46,850,000 acres. Of this, they estimate 26,886,000 acres, or 57.4 percent involve Federally owned minerals. The remaining 19,964,000 acres, or 42.6 percent are privately owned. Of the Federal lands, 8,750,000 acres are under oil and gas lease. An additional 4,690,000 acres are under oil and gas lease application.

The Forest Service estimates that it manages 9,000.000 acres within its delineation of the "overthrust belt." Of this, they estimate 5.5 million are currently under lease and that the remaining 3.5 million acres are under application.

BLM estimates that it has sole jurisdiction over 11,373,000 acres within its delineation of the overthrust belt. Of this, they estimate that 5,855,850 acres are under lease and that the remainder is under application.

4. How many acres are being withheld from leasing for oil and gas and geothermal by withdrawals, land use planning decisions, wilderness review, legislative prohibitions, or for other reasons? How many acres have been restored to leasing as a result of the withdrawal review program under FLPMA?

The Department of the Interior has not compiled all of the information requested on the amount of Federal lands withheld from oil, gas and geothermal leasing. Several studies have been done in the past few years exploring the question of availability of Federal lands for mineral development. None readily provide the precise information requested, nor can the Department verify the conclusion of any of these efforts.

In the absence of data which can be adequately verified by the Department, information developed by the Office of Technology Assessment (OTA) in April 1979, and estimates by the Bureau of Land Management which are based on available statistics are submitted herewith. The OTA study, the most recent available, reports 96.4 million Federal acres (except Alaska) as formally closed to leasing and an additional 81.4 million acres as highly restricted. Table B.1. from the OTA study, which indicates the use for which this acreage is closed or restricted is attached as enclosure 4. It should be noted that some significant decisions (discussed below) regarding Federal land use have recently taken place or will take place shortly that are not entirely reflected in the enclosed data. These ongoing reviews and processes modify the data in the OTA report.

However, because some of the affected acreage is already accounted for under existing categories of "restricted" lands in the OTA data, this acreage cannot simply be added to the totals of lands portrayed as closed or restricted by the OTA report. Moreover, restrictions will be quickly removed on much of the acreage involved as the review processes are concluded and as Congress acts on wilderness designations.

WILDERNESS REVIEW

The Federal Land Policy and Management Act of 1976 (FLPMA) directed the Bureau of Land Management to identify all roadless areas larger than 5,000 acres administered by the Bureau that have wilderness characteristics. If an area meets that test, the law requires that it be studied and recommendations be made through the Secretary of the Interior and the President to Congress as to whether it is suitable for preservation as wilderness.

The challenge to BLM is acute since much of the acreage that may be suitable for destination as wilderness is also potentially valuable for energy especially in the Overthrust Belt. In response, BLM has done two things: (1) given high priority for wilderness inventory and review to the lands that may also be prospective for oil and gas or other energy resources (review of the Overthrust Belt was completed February 22, 1980); and (2) devised standards in the Interim Management Plan (IMP) for wilderness review that permit exploration and development. On leases where activity was occurring prior to the passage of FLPMA it can continue, restricted, in some cases, so as not to create impacts greater than before the Act.

Exploration and development on new leases is generally permitted as long as it does not degrade the potential for designation as wilderness should the President make such a recommendation. Of the approximately 174 million acres of public land reviewed in the Western States, nearly 123 million acres have been deleted from further review due to lack of wilderness values, approximately 10 million acres have been identified as wilderness study areas, and 41 million acres are still under inventory. These figures are current to February 22, 1980, and subject to periodic update.

The Department of Energy has funded a study (which is duplicative of BLM efforts) at the Oak Ridge National Laboratory to identify regions with potential for significant "conflict" between multiple energy resources and areas under BLM wilderness review. Conflict regions were defined as regions in which a high percentage of the land was in wilderness inventory units and in which there was also high potential for energy resources.

The draft study report (as revised November 26, 1979) concluded that, in general, the conflicts were "minimal" for coal, oil shale, heavy oil, geothermal and hydroelectric resources. It did identify four regions of conflict due to multiple energy resources and regions of single energy resource conflicts. This assessment, however, was based on all lands under intensive inventory. Since we expect the intensive inventory process to result in a further substantial reduction of acreage under wilderness review, the extent and location of potential conflicts may be considerably reduced below that projectd by the DOE-funded study.

SECRETARIAL ORDER

Approximately 6.6 million acres of acquired military lands were closed to leasing on November 1, 1979, by the imposition of a temporary moratorium designed to allow for the adoption of a fair and responsible leasing program.

All lands outside of KGS's were closed to leasing on February 29, 1980, by the imposition of a temporary leasing suspension designed to allow for the investigation and correction of abuses to the noncompetitive leasing programs.

WITHDRAWAL

With regard to withdrawals of Federal lands from oil and gas leasing, Section 201(*l*) of FLPMA requires a review of withdrawals in certain States to be completed within 15 years of the effective date of that Act. In order to obtain a comprehensive review, BLM is also including in the review, other withdrawals in other States. BLM estimates that about 4,000 oil and gas withdrawals will be reviewed.

It should be stressed that this effort does not cover withdrawals and reservations of lands in Indian reservations, the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System or the National Trails System.

The purpose of this review is to determine whether, and for how long, the continuation of a withdrawal would, in the view of the Secretary of the Interior, be consistent with the statutory objectives of the programs for which the lands were dedicated and of other relevant programs.

After submission of recommendations to the President and the Congress, the Secretary is authorized to terminate withdrawals, other than those made by Act of Congress, in accordance with those recommendations.

BLM has completed the process of identifying the withdrawals covered by the review. This inventory was the first step in the comprehensive withdrawal review. The inventory identified 18.9 million acres withdrawn from oil and gas leasing of the approximately 350 million acres in the 11 western States subject to review under section 204(c). A copy of the results of the withdrawal review inventory is attached as enclosure 5.

No acreage has as yet been restored to leasing as a result of the withdrawal review.

LAND USE PLANNING

It is difficult to assess the cumulative impact of land use planning decisions on oil, gas, or geothermal leasing. Analysis would require a commitment of time and personnel comparable to the current withdrawal review effort. It would be difficult to conclude, in light of the increasing acreage held under lease (see enclosure 6), that land use planning has significantly reduced leasing activity.

5. What is the trend in leasing—i.e. how many acres have been leased and how many leases issued in each of the past 3 years compared to 10 years ago? What is BLM doing to keep pace with the trend?

A review of the past ten years reveals a fifty percent increase in the total amount of acreage held under oil and gas lease and a corresponding ten percent increase in the total number of outstanding leases. During this time period the total number of lease applications filed each year is known to have increased dramatically although numeric evidence of this trend is not available. The number of leases issued each year varies substantially, probably in relation to the number of applications filed. Another trend is the increasing average size of noncompetitive leases from 970 acres in 1968 to 1,215 acres in 1978. See charts and graph attached as enclosure 6.

The past ten years have witnessed an increasing workload in the areas of processing applications, environmental review, coordination with other agencies and compliance checks. BLM has administered this increasing workload without increasing its minerials manpower. As a result, not all tasks are performed optimally. Steps have been, and are being taken, however, to perform these tasks as fully as possible within current manpower and financial restraints.

BLM is currently operating a pilot automated simultaneous oil and gas drawing in its Wyoming State Office in order to keep pace with increasing filings. The automation of other State offices is in progress.

BLM has not sufficiently or successfully coordinated with all of the various other agencies which are sometimes involved in lease issuance as the surface managers. Of the backlog of 7,400 lease applications more than one year old which existed on November 1, 1979, fully 72 percent were awaiting action by another agency. BLM hopes to establish closer coordination with these agencies in the future to ensure prompt action on their part.

Geothermal leasing, a relatively new leasing program, has been fairly constant at about 250 leases per year. There was no leasing ten years ago. Personnel have been borrowed or transferred from existing programs to staff geothermal requirements leaving all areas less than ideally staffed.

6. Is there any serious problem with the flow of lease issuance or other related leasing activity that is restricting leasing activity? If so, what has BLM done and plan to do to rectify the problem, especially in view of a tight national energy picture? Supply an aging analysis of all pending applications for oil and gas and geothermal leases, and for all applications more than one year old, the general reason for non-issuance.

Appeals of BLM State office oil and gas decisions cause immense delays in lease issuance. There is at present a 6–9 month backlog of protests on appeal before the Interior Board of Land Appeals. In addition, all action toward lease issuance is suspended for 120 days following an IBLA decision in anticipation of an appeal to Federal Court. While some delay is unquestionably necessary in the event that a legitimate protest or appeal is filed, the present adjudicatory process is being abused. We are examining means to correct this situation.

If we had unconstrained resources, we could adjust to peak demands; otherwise we have to respond to other demands on our staff such as work on grazing environmental statements mandated by court order, as well as lease issuance work. Congressional budget decisions have prevented leasing in some areas such as Flathead and Shawnee National Forests.

Coordination with other agencies which have input into the leasing process has not been satisfactory and long delays in lease issuance have resulted. BLM is coping with manpower and budget shortages as best it can, streamlining procedures where possible. Regional environmental assessments are being prepared for oil and gas leasing. Phased environmental assessments are being used for geothermal leasing.

An aging analysis by the Geothermal Streamlining Task Force in January 1979 showed that since 1974, when BLM began leasing, the average time from application filing to lease issuance had dropped from 23 months to 8 months. However, numerous applications have never been processed to completion. BLM is working on about 900 cases and the Forest Service 1,000. The general reason is simply the requirement to complete an environmental review. An aging analysis of oil and gas lease applications is attached as enclosure 7.

7. Is there anything BLM could do to increase the number of leases issued such as offering more acreage, reject fewer applications, or simplify the procedures required? If such an increase was possible, would more oil and gas production result?

All lands which are open to leasing are readily available for leasing. The government can do little directly to increase the volume of leasing on the currently open lands because the leasing programs are largely dependent on citizen or industry initiative.

A reduction in the cost of leases to potential lessees would not increase the number of leases issued. Existing lease costs are sufficiently low that they are no hinderance to lease issuance. Indeed, the existing cost structure is so low that it encourages speculation without intent to explore or develop at considerable administrative cost.

Lease issuance cannot be increased by a concerted effort to reject fewer applications. The Department is committed to promoting the exploration and development of oil and gas by approving citizen and industry requests to utilize Federal lands as evidenced by the fact that less than 10 percent of applications for permit to drill are rejected (see enclosure 1). Although specific figures have not been compiled, it can be said that few applications for lands which are open to leasing are rejected. Commonly, leases will be issued subject to restrictive stipulations which vary in severity in accordance with the amount and type of adverse impact which exploration and development will have on a competing value.

Lease issuance cannot be increased by simplication of the leasing procedure. The procedural aspects of the three onshore leasing programs are not of sufficient complexity to reduce the total amount of oil and gas leases issued. A simplification of such aspects would not, therefore, increase the number of leases issued. BLM recognizes that greater simplification of procedures could result in expediting leasing, although not more leases. To this end a procedural streamlining of the evaluation of environmental considerations is under review. Procedural changes in the mechanics of protests and appeals are also needed.

A quantitative change in the number of acres under lease will likely have no effect on oil and gas production. Fully 75 to 80 percent of all onshore Federal leases are relinquished or expire without the submittal of a drilling proposal. Nearly as many leases are relinquished or expire each year as are issued by BLM. Scarcely one-tenth of existing leases are under production.

Production can be improved by a qualitative change in the acreage under lease. This will be achieved by opening high potential lands which are currently closed to leasing and by removing restrictions on promising lands currently available to leasing (see response to question 4).

8. Would more manpower and money help and if so how would it be used and what results could be anticipated? Please supply us with current manpower and funding levels.

Never before in this century has interest in the energy potential of the public lands been as widespread or intense as it is now nor has the need been greater for careful management of increasingly scarce oil and gas resources and increasingly significant geothermal resources.

There has been a flood of environmental and leasing legislation with required implementing regulations, but manpower has not grown proportionately. Of necessity, personnel have been borrowed or transferred from existing areas to staff new programs thereby leaving all areas less than ideally staffed, critically so in some cases.

If BLM had additional people and dollars, they would be used for the following: (1) oil and gas adjudicators are needed to keep control of the rising flood of lease applications and to minimize the backlog of lease applications; (2) resource specialists to expeditiously complete regional environmental assessments so as not to impede or discourage oil and gas development; and (3) if pending legislation is enacted, the leasing of NPR–A.

Additional funding would facilitate the automation of leasing functions. BLM's Wyoming State Office currently uses a computer to conduct its simultaneous oil and gas drawings. This system is to be employed by other State offices. Additional funding would allow for the much needed automation of land status records.

The oil and gas program presently involves 258 full time positions and operates with a budget of $8,861,000.

In the geothermal program, legislation pending in Congress is expected to further increase the number of lease applications to be processed in FY 1981 with attendant manpower needs. Another added workload anticipated in FY 1981 is direct thermal use applications, which include space heating, crop drying, hydroponic greenhousing, and heat for distillation of gasohol, among others. Idaho, Oregon and Nevada are currently using geothermal energy for some of these purposes. Regulations on direct thermal use of geothermal resources have been published by the U.S. Geological Survey, and BLM expects to receive a growing number of applications in FY 1980 and FY 1981.

Additional staffing will also be needed to assume increased compliance and monitoring responsibilities which will result from the leasing of such prime areas as Coso, Mono Lake, and Buckworth Peak in California and Roosevelt Springs in Utah.

The geothermal program presently involves 69 full time positions and operates with a budget of $2,431,000.

9. What is the status of wilderness review under Section 603 of the Federal Land Policy and Management Act of 1976 in the Overthrust Belt?

The Final wilderness inventory decisions in the overthrust belt were announced in the February 22, 1980, Federal Register. The BLM accelerated its inventory on public lands within the Overthrust Belt, located in Arizona, Idaho, Montana, Nevada, Utah, and Wyoming, in order to resolve potential conflicts with energy exploration and development on lands that do not meet basic wilderness criteria. The results of the inventory are set forth below:

RESULTS OF WILDERNESS INVENTORY IN THE OVERTHRUST BELT

[Final decisions announced as of Feb. 22, 1980]

State	Overthrust belt acres administered by BLM	Acres found to lack wilderness characteristics	Acres identified as WSA
Arizona	580,000	301,000	279,000
Idaho	783,000	782,000	1,000
Montana	1,397,000	1,192,000	205,000
Nevada	6,100,000	5,171,000	929,000
Utah	1,343,000	1,327,000	16,000
Wyoming	1,200,000	1,153,000	47,000
Total	11,403,000	9,926,000	1,477,000

10. Please supply a summary of (1) outstanding coal leases, (2) planned lease sales, and (3) the status of the coal leasing program.

(1) As of January 1, 1980, there were 550 coal leases covering 802,521 acres containing approximately 17.36 billion tons of Federal coal. Production from Federal leases in FY 1979 amounted to 59.14 million tons.

(2) The Department's federal coal management program will result in a total of 40 billion additional tons of federal coal being cleared by the BLM planning system as suitable for leasing by 1984. On June 4, 1979, the Secretary set sale dates for three coal production regions and directed BLM to prepare an EIS in a forth region. Later lease sales are being planned for the remaining federal coal production regions although the dates were not part of the June 4 decision. Actual targets will be based on demand.

Region	Sale date[1]
Green River-Hams Fork	January 1981.
Unita-Southwestern Utah	July 1981.
Southern Appalachia (Alabama)	July 1981.
Powder River	April 1982.
Fort Union	April 1982.[2]
Western Interior	July 1982.[2]
Denver-Raton Mesa	July 1983.[2]
San Juan River	July 1983.[2]

[1] All dates are tentative pending completion of the regional ease sale EIS and the final decision by the Secretary.

[2] The Secretary has indicated a preference for holding a sale by this date although no final decision has been made.

In addition to the lease sales scheduled under the new competitive leasing system, 14 "emergency" lease sales have been conducted in response to coal lease applications since the Secretary's announced program of June 4, 1979. These 14 sales embraced 10,884 acres containing 135 million tons of recoverable coal. Six leases have been issued as a result of these sales, and additional leases are being processed. One "emergency" lease sale is tentatively scheduled for May 1980.

(3) The Federal coal management program, which was adopted in June 1979, in-

volves a series of steps that ultimately will lead to the leasing of Federal coal. Beginning with land-use planning and the application number of DOI unsuitability for coal mining criteria, it develops areas otherwise suitable for coal development, flows through a call for industry expressions of interest in coal leasing, the delineation of preliminary tracts by a regional coal team composed of BLM and State Governors' representatives, to an environmental impact statement and lease sale. This process is described in 43 CFR 3420.

Final regulations for coal management were published on July 19, 1979. The final planning regulations were published on August 7, 1979. In addition to these steps to implement the program, several regions have begun the process described above and others are scheduled over the next several years as below:

Region and States involved	Start date	Projected sale date
Green River-Hams Fork, Colo./Wyo.	June 1979	January 1981.
Southern Appalachia, Alabama.	August 1979	June 1981.
Uinta-Southwestern Utah, Utah/Colo.	August 1979	July 1981.
Powder River, Mont./Wyo.	July 1980	April 1982.
Western Interior, Oklahoma.	Mid-1980	Mid-1982.
Fort Union, Mont./N. Dak.	Mid-1981	Mid-1983.
San Juan River, N. Mex./Colo.	Late 1981	Mid-1983.
Denver-Raton Mesa, N. Mex./Colo.	Late 1982	Mid-1983.

The Green River-Hams Fork Region effort has completed the tract selection process and is beginning the environmental impact statement. The Uinta-Southwestern Utah effort has completed preliminary tract delineation and is into the site-specific impact analysis phase. The Southern Appalachian Region in Alabama is completing the site-specific analysis phase. These processes have not begun in the Western Interior, Fort Union, San Juan River, or Denver-Raton Mesa Regions.

11. a. Please briefly describe the factors which have affected the development of the coal leasing program since 1971, including the impact of the Federal Land Policy and Management Act of 1976, the Federal Coal Leasing Amendments Act of 1976, the National Forest Management Act, and the Surface Mining Control and Reclamation Act of 1977.

Prior to 1970, coal lease applications were processed on a case-by-case basis with little consideration given to the total amount of reserves under lease, the need to lease additional coal reserves, and the potential environmental impacts of leasing additional Federal coal. In 1970, a study prepared by the Bureau of Land Management (BLM) reported a great inequity between the number of acres under lease and the amount of coal that was actually being produced from those leased areas. According to the study, approximately 91 percent of the acreage under lease was not producing coal.

As a result of the BLM study, the Department imposed a complete moratorium on coal actions that resulted in no leases being issued between May 1971 and February 1973. In 1973, the Department formally adopted the competitive leasing moratorium which had been informally imposed in 1971. At the same time, the Department began studies which led to the adoption in 1975, of the unsuccessful EMARS competitive leasing program. During the interim, they held a limited number of emergency "short-term" sales.

While limited leasing was being carried out under the "short-term" phase of the policy, the Department issued a draft programmatic EIS in May 1974. The draft EIS focused on a new three-part coal leasing system entitled the Energy Minerals Allocation Recommendation System. However, when the final EIS was issued in September 1975, the proposed leasing system was modified and retitled the Energy Minerals Activity Recommendation System (EMARS). There were no reasons given for the change between the draft and final EIS's nor was there much analysis of the potential environmental impacts of the new leasing system. In October 1975, the Natural Resources Defense Council, Inc. (NRDC) filed suit against the Department challenging the adequacy of the final EIS.

In 1976, the leasing program described in the final EIS was adopted as final departmental policy and regulations were promulgated to implement that system. Implementation of the program came to a virtual halt in September 1977 when the U.S. District Court ruled that the 1975 EIS was inadequate and enjoined the Department from:

". . . taking any steps whatsoever directly or indirectly to implement the new coal leasing program including calling for the nominations of tracts for Federal coal leasing and issuing any leases, except when the proposed lease is required to maintain an existing mining operation at the present levels of production or is necessary to provide reserves to meet existing contracts and the extent of the proposed lease is not greater than is required to meet these two criteria for more than three years in the future."

The court ordered the Department to correct the inadequacies by seeking additional comments on the 1975 EIS, publishing a draft supplement, receiving comments on that draft, and issuing a final statement. By the time of the court order, the Department had already undertaken a review of this coal policy and decided that a new, rather than a supplemental, EIS would be prepared. Part of the Department's consideration in reaching this decision was laws that were enacted after the publication of the 1975 EIS and new policy direction that was intiated in 1977 by the President.

The President's 1977 initiatives called for increased coal production to reduce U.S. dependence on foreign energy sources by developing coal in an environmentally sound, economically efficient, and well-planned manner while fully protecting the public interest and respecting the rights of private surface owners. The President specifically directed the Department to develop a workable, environmentally sound, and legally defensible program that responds with some certainty to the country's need for coal production, and determine if they show prospects for timely development; and to take steps to deal with nonproducing and environmentally unsatisfactory leases and applications.

The laws enacted in 1976 and 1977, particularly the Federal Land Policy and Management Act of 1976 (FLPMA), the Federal Coal Leasing Amendments Act of 1976 (FCLAA), and the Surface Mining Control and Reclamation Act of 1977 (SMCRA), provided a basic framework for developing a Federal coal program that would incorporate the President's directives.

Because of the decision to prepare a new EIS and develop a new program that would incorporate the new statutory requirements, the President's policies, and would respond to the court's order, the Department did not aggressively pursue an appeal of the court's decision but negotiated a settlement with the plaintiffs. The settlement was adopted by the court and an amended order was issued on June 14, 1978. The amended order permitted substantially more leasing while the new EIS was being prepared. Using the leasing criteria in the amended order, 14 leases were issued covering 9,168 acres containing 73.07 million tons of recoverable reserves.

The requirements for comprehensive land-use planning, designation of lands unsuitable or suitable for all or certain types of surface coal mining operations, and obtaining surface owner consent where the surface above Federal coal is privately owned have been incorporated in the coal management program in order to enable the Bureau to identify those areas that should not be considered for coal development.

11. b. How has the Department's implementation of this legislation affected the production of Western coal and industry's ability to use it?

The legislation enacted by Congress in recent years has provided the basis for a sound and comprehensive Federal coal management program. Since the enactment of these laws, there has been relatively little impact on production of western coal per se. From 1977 until the Secretary's adoption of the new program, the Department issued leases only to maintain production and meet existing contracts or to prevent the bypass of Federal coal. Thus, the leasing of coal has been on an immediate need basis. The laws have enhanced the production of western coal by giving direction to a program that was under fire from environmental as well as industry organizations. The future impact on production is expected to be significant.●

RELEASE OF COLORADO NATIONAL FOREST LANDS

● Mr. HART. Mr. President, the Senate Committee on Energy and Natural Resources will soon act on S. 2123, the Colorado National Forest Wilderness Act. One of the major issues in this and other RARE II legislation is the "release" of lands under wilderness consideration to multiple use management. I want to share with my colleagues and the public my views on the best method of releasing the RARE II lands.

Secretary of Agriculture Bob Bergland, who oversees the Forest Service, today wrote me a letter answering seven crucial questions about release I asked him last month. His answers confirm that the release method I support will be effective. The information contained in his answers will be of great benefit to the Senate and the public as we consider Colorado wilderness legislation.

There are four critical parts of the release issue I want to address.

I. THE REAL ISSUE IS NOT WHETHER WE SHOULD RELEASE THE LANDS WHICH WERE TIED UP BY RARE II, BUT HOW WE SHOULD RELEASE THEM

I strongly favor the concept of release, as does virtually every Member of both Congress and the general public. Lands which were studied for possible wilderness designation, but which were rejected by either the Forest Service or Congress, should be available for multiple use.

The major question is how to make sure that release takes place. I support three measures to release the RARE II lands:

First. Continued Forest Service implementation of last year's decision to release most of the RARE II lands;

Second. A statutory provision barring court challenges to that release; and

Third. A conference committee report directive releasing additional lands—those recommended by the Administration which Congress has decided should not be wilderness.

Congressmen JIM JOHNSON and RAY KOGOVSEK and I have worked out an agreement with the House Interior Committee leadership to accept the confer-

ence committee report directive. By adding the statutory provision against judicial review of the nonwilderness decisions, the Senate would be adopting a much more effective method of release than the House did in the Colorado wilderness bill it approved unanimously last December.

II. MOST OF RARE II LANDS HAVE ALREADY BEEN RELEASED

In its second roadless area review and evaluation, or RARE II, the Forest Service studied the largest roadless areas in the national forest system to see if they should be designated as wilderness. During the study, the Forest Service restricted the use of these areas, preventing any disturbance of their wilderness character. At the end of the study, Secretary Bergland determined that most of the RARE II lands should not be designated as wilderness, but instead should be under regular, nonwilderness, multiple-use management. On April 16, 1979, the Secretary released these lands, allocating them to nonwilderness. In Colorado, of the 6.5 million acres of RARE II land, the Secretary released 4.2 million acres—two-thirds of the total—to nonwilderness. This release was effective immediately. The RARE II freeze on these lands was lifted. The lands were made available for the full range of multiple uses allowed in national forests, including development activities like timber harvesting and roadbuilding.

The nonwilderness decisions were announced on the same day as the administration recommended that Congress designate some of the RARE II lands as wilderness. Because more press attention was paid to the wilderness recommendations for 2 million acres than to the release of the 4.2 million acres, many people have not realized that most of the RARE II lands were released last year. These people understandably, although mistakenly, believe the RARE II freeze is still in effect, and assume congressional action will be necessary to release the lands.

Because Secretary Bergland's decision releasing most of the RARE II lands is so important, I recently wrote to him; asking him about the management of the lands returned to multiple use. The Secretary responded today. His reply confirms the release of most of the RARE II lands. The Forest Service is now managing those lands as nonwilderness.

To document this, the Secretary provided a list of the development activities being undertaken this fiscal year on the released lands. The list includes more than 300 specific development activities on the 4.2 million acres which were released last year. These activities include timber sales; construction of roads, buildings, and fences; and leasing for oil, gas, and mineral development.

This list dispels the misunderstanding that additional congressional action is needed to release these lands. In fact, legislation making permanent the Secretary's land allocation decisions would only tie our hands, by taking away the Forest Service's ability to adapt land management to new circumstances in the future.

What is appropriate is congressional action to make sure that the Secretary's decisions releasing the lands can remain in effect. The administrative release of the 4.2 million acres in Colorado is threatened by the possibility of a court decision similar to one issued in California this year. In a suit brought by the California State government, a U.S. district court ruled that the RARE II environmental impact statement (EIS) did not adequately consider the environmental effects of releasing the California roadless areas. Because of this failure to comply with the National Environmental Policy Act, the judge ruled that the Forest Service could not develop the disputed areas until new environmental studies were done.

Although a similar suit has not yet been filed in Colorado, the decision in California against Bergland is a clear precedent which could apply to the Colorado RARE II impact statement. In Colorado, a similar decision could tie up once again all RARE II lands, including the 4.2 million acres which have been released. To prevent this kind of decision, when the Energy Committee considers S. 2123, I will propose an amendment to bar a similar court case in Colorado.

Secretary Bergland, after consultation with the Forest Service's lawyers, has indicated that Congress can prevent a similar decision by finding legislatively that the Colorado RARE II environmental impact statement is legally and factually sufficient. This amendment would preclude judicial review of the adequacy of the EIS. Then, when the Colorado bill passes, the two-thirds of the Colorado RARE II lands which have already been released will be protected against a new court-ordered freeze.

This amendment will not be statutory release. It will not be an affirmative congressional decision either allocating lands to nonwilderness or limiting the ability of future land managers and sessions of Congress to consider additional wilderness designations. The amendment will simply preserve the status quo, by protecting the land allocation decisions made by the Secretary of Agriculture.

I will propose this amendment because a court-ordered freeze would be unacceptable. I support the National Environmental Policy Act and the concept of reviewing the environmental effects of proposed actions. A Federal judge has concluded that the Forest Service's environmental review did not comply with NEPA. My own review of the Colorado impact statement suggests that this is legally a correct decision.

However, the environmental review of the RARE II lands has been much broader than is reflected in the EIS. Literally thousands of Coloradans have participated in the RARE II process, both during the Forest Service's review and during the congressional consideration of the RARE II legislation. This public process has been so extensive that I am confident that the RARE II decisions have received adequate environmental consideration, even if the EIS does not fully reflect that consideration.

III: WHERE CONGRESSIONAL ACTION IS NECESSARY TO RELEASE RARE II LANDS, I HAVE AGREED WITH CONGRESSMEN JIM JOHNSON AND RAY KOGOVSEK ON A RELEASE METHOD WHICH WILL BE EFFECTIVE

While most of the RARE II lands have already been released, and need only congressional action to protect them from a possible court-ordered freeze, affirmative congressional action is necessary to release the areas which the administration recommended for wilderness designation, but which Congress determines instead should be managed for multiple use. Following the RARE II study, the administration recommended 33 wilderness areas in Colorado, totaling 2 million acres. The Forest Service is now managing these areas to protect their unspoiled character while Congress decides whether to designate them as wilderness. In effect, the status quo is that we have 2 million acres of new wilderness in Colorado as a result of RARE II.

The general consensus in Colorado is that not all of these 33 areas should be designated as wilderness. The House of Representatives last December passed a bill sponsored by Congressmen JIM JOHNSON and RAY KOGOVSEK that would designate 19 of the areas the administration recommended for wilderness. The bill I have introduced would add two other areas, near the populous Front Range, to the 19 in the House bill. In other words, the Colorado delegation has decided that at least 12 of the areas recommended by the administration should not now be designated as wilderness. For some of these remaining areas, additional information or review is necessary before a final judgment should be made either designating them as wilderness or releasing them to nonwilderness. For others, however, it is already clear that they should not be wilderness, but instead should be released and managed for nonwilderness uses.

Since the status quo is that these areas are being protected as wilderness, Congress needs to take affirmative action to indicate its decision that the areas should be released. Otherwise, the administration is left guessing about the areas not included in the final bill, not knowing whether they are still under review for possible wilderness designation. In his letter to me, Secretary Bergland indicates that the administration will likely protect all the areas recommended for "a lengthy period of time," unless Congress releases them by clearly stating its decision to return them to multiple use.

Congressmen JOHNSON, KOGOVSEK, and I have agreed to release the areas recommended by the administration that Congress has decided should not be wilderness, through a directive contained in the conference committee report accompanying the final Colorado wilderness bill.

In his letter to me, Secretary Bergland confirms that the conference committee release list will be taken as binding. In his answers to my question No. 6, the Secretary pledges that the administration will take the report language as a clear statement of a congressional de-

cision, and will release the listed areas. The Forest Service will then end immediately the current restrictions on the areas, and will manage them as nonwilderness.

Congress is similarly using the committee report method to release Idaho lands recommended by the administration that Congress has decided should not be wilderness. This method will work in Idaho, and it will work in Colorado.

Congressmen JOHNSON and KOGOVSEK and I have agreed to this method because it will be effective, and will not create public and congressional opposition which would block passage of a Colorado wilderness bill.

Some have proposed that the bill contain a blanket statutory provision releasing the areas recommended by the administration but not in the bill, and legislatively ratifying the Secretary's decision of last April releasing the other RARE II lands. Secretary Bergland's letter demonstrates that a statutory provision is unnecessary, since most RARE II lands have already been released and since the conference committee report will effectively release the other lands which should be released.

Many people strongly oppose any statutory release provision, since the precedent of the statutory decision could be used in the future to undercut both the wilderness system and the principle of flexible land management which can adapt to changing circumstances. In his testimony before the House and the Senate, Colorado's Governor Richard D. Lamm strongly opposed a statutory release clause. In every congressional vote ever taken on the specific question, statutory release has been rejected. In its only vote on the issue—during consideration of the Idaho River of No Return Wilderness bill—the Senate rejected statutory release, by a vote of 69 to 18.

IV. COLORADO NEEDS A RARE II BILL THIS YEAR

I oppose statutory release, for the practical reason that attempting to release lands through a statutory provision would block both wilderness and release. Public and congressional opposition has consistently blocked any bill containing a statutory release clause. The Oregon RARE II bill, the one bill which has passed the Senate with a release clause, has died in the House. If the Senate's Colorado wilderness bill contained a release clause, the House would block final passage of the bill. Even if Congress were to approve a statutory release provision, it would face a possible veto, since the administration opposes any statutory release.

Blocking passage of a Colorado wilderness bill would hurt everybody's interests. The people of Colorado have lived with RARE II long enough, and deserve prompt resolution of the wilderness issue. Passing a bill will guarantee protection for our most magnificent mountain areas, which we should protect for our children and their children. A bill also provides an opportunity to release some lands which are not being managed as wilderness, but which should be available for timbering, oil and gas development, water development, or other nonwilderness uses. With the EIS finding I will propose, the bill will also prevent a court-ordered freeze of all RARE II lands.

In other words, with a wilderness bill, we get permanent protection for 1.3 to 1.5 million acres of wilderness. Without a bill, we are left with 2 million acres of de facto wilderness—and if somebody files a suit, we will get 6.5 million acres of de facto wilderness.

Colorado will be better served with a RARE II bill which resolves these issues.

I believe my correspondence with Secretary Bergland will shed additional light on these points. I ask that it, and a simplified list of the development activities on the released lands in Colorado, be included in the RECORD.

The material follows:

U.S. SENATE,
Washington, D.C., April 29, 1980.

Hon. BOB BERGLAND,
Secretary, Department of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: Congress is now in the process of considering Colorado wilderness legislation, which is based on the recommendations the Administration made following the Forest Service's roadless area review and evaluation, phase two (RARE II). The House of Representatives last December passed its bill, and the Senate Energy Committee will soon be acting on similar legislation.

A critical issue in the Senate deliberations on this legislation, as was true in the House, will be whether to include in the bill a statutory provision "releasing" the RARE II lands not covered by the bill to nonwilderness, multiple-use management. The positions of the Administration and the Department of Agriculture on this issue and related national forest management questions will be important to the Senate. To ensure we correctly understand those positions, I would appreciate it if you could answer the enclosed questions.

These answers will be very helpful to us, and I appreciate your assistance in providing them.

Sincerely,

GARY HART.

QUESTIONS ABOUT RELEASE

1. In April 1979, the Department allocated most of the RARE II lands—in Colorado, about 4.2 million acres of the 6.5 million acres of inventoried roadless areas—to nonwilderness. How is the Forest Service now managing those lands? When will the Forest Service next review those lands for possible wilderness designation? Until that review, will the Forest Service manage any of those lands in a manner designed to protect their suitability for possible wilderness designation?

2. In April 1979, the Department allocated some RARE II lands—in Colorado, about 300,000 acres—to further planning. How is the Forest Service now managing those lands? When will the further planning on those lands be completed? How will the Forest Service then manage those lands?

3. The Administration has recommended about 2 million acres of national forest land in Colorado for wilderness designation by Congress. How is the Forest Service now managing those lands, and in absence of clear Congressional action on those wilderness recommendations, how long will the Forest Service continue that management?

4. What is the Administration's position on statutory release of roadless areas to nonwilderness, multiple-use management?

5. In some instances, the final Colorado wilderness legislation is likely to designate as wilderness part, but not all, of an area recommended by the Administration. Will the Administration interpret this as a decision on the entire recommended area, including a decision that Congress does not intend to designate as wilderness the part of the area not designated by the legislation? How would the Forest Service then manage the part of the recommended area which was not designated by the legislation?

6. The final Colorado wilderness bill is unlikely to designate as wilderness all of the areas recommended by the Administration. If the conference committee report accompanying the final bill indicates that Congress does not intend to designate as wilderness certain of the remaining areas and directs the Department to release them and allocate them to nonwilderness, how will the Department respond to that directive? If the report indicates that Congress wants more detailed study of other remaining areas, and directs the Department to release them and allocate them to further planning, how will the Department respond to that directive?

7. If Congress were to include in the Colorado wilderness legislation a provision to preclude a judicial decision with respect to the Colorado RARE II lands similar to the decision issued in the case of *California v. Bergland* with respect to the California RARE II lands, what language would the Department recommend for that purpose?

DEPARTMENT OF AGRICULTURE,
Washington, D.C., May 19, 1980.

Hon. GARY HART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HART: This is in response to your letter of April 29 requesting information on our position regarding the need for a statutory provision explicitly releasing from further consideration for wilderness designation certain RARE II lands not designated as wilderness by a Colorado wilderness bill. The following responses are to your specific questions concerning this matter.

Question 1: In April 1979, the Department allocated most of the RARE II lands—in Colorado, about 4.2 million acres of the 6.5 million acres of inventoried roadless areas—to nonwilderness. How is the Forest Service now managing those lands? When will the Forest Service next review those lands for possible wilderness designation? Until that review, will the Forest Service manage any of those lands in a manner designed to protect their suitability for possible wilderness designation?

Answer: Since April 1979, the Forest Service has been managing the RARE II inventoried roadless areas allocated by President Carter to nonwilderness for uses other than wilderness in conformance with current laws, regulations, and land management plans developed prior to our RARE II study. These lands are available for uses other than wilderness, such as timber harvest, grazing, recreation site development, and dispersed recreation use. Since the time these lands were allocated to nonwilderness last year, "nonwilderness" activities already have occurred on some of the nonwilderness lands in Colorado. They will be managed for nonwilderness purposes for the life of the first generation of National Forest plans developed under the National Forest Management Act. The attached list of fiscal year 1980 planned projects indicates the type and extent of activities presently taking place and planned in nonwilderness areas. When the initial land management plans developed between 1980 and 1985 for individual National Forests are revised, as is required by the National Forest Management Act, the Forest Service again will consider all resource values of the so-called "nonwilderness areas." One of several options for the management of

these lands will be to recommend wilderness designation. The timing of the revision of the initial land management plans will vary from National Forest to National Forest, depending on when the initial plans are prepared and unforeseen circumstances that might require an earlier revision of a specific forest plan. Under the National Forest Management Act, all initial plans are to be completed by 1985, and our regulations provide that they be revised about every 10 years.

Some of the nonwilderness lands will no longer be suitable for wilderness designation at the time the initial land management plans are revised. Other lands may still be suitable for wilderness designation. The resources in those land areas allocated to nonwilderness will be subject to purposeful management and will not be withheld from use for the purpose of protecting the area so it would be suitable for possible wilderness designation when plans are revised.

Question 2: In April 1979, the Department allocated some RARE II lands—in Colorado, about 300,000 acres—to further planning. How is the Forest Service managing those lands? When will the further planning on those lands be completed? How will the Forest Service then manage those lands?

Answer: Further planning areas are managed to protect the present wilderness character of these lands until such time as new land management planning decisions have been completed and approved. Until new plans are approved no commercial timber harvest is permitted except for emergency reasons. Prospecting for minerals is permitted. Development and exploration is permitted with reasonable stipulations prescribed by the Forest Service. Oil and gas exploration will be considered in further planning areas. Activities permitted by prior rights, existing law, and other established uses may continue pending final decision for the area. These lands will be considered for a variety of resource uses, including wilderness, during development of land and resource management plans or other specific project plans meeting National Environmental Policy Act requirements.

The land management planning process will comply with regulations developed to meet the requirements of Section 6 of the National Forest Management Act. The first generation of Forest plans will be completed by the end of 1985. Decisions on the areas placed in further planning will be made during this period. These decisions may include nonwilderness decisions as well as additional wilderness recommendations.

After these decisions are made, land recommended for wilderness will continue to be protected until Congress makes a decision on the wilderness question. Those lands allocated to nonwilderness use by the forest plan will be managed in accordance with prescriptions outlined in the plan.

Question 3: The Administration has recommended about 2 million acres of National Forest land in Colorado for wilderness designation by Congress. How is the Forest Service now managing those lands, and in absence of clear congressional action on those wilderness recommendations, how long will the Forest Service continue that management?

Answer: The Forest Service is temporarily managing these lands to protect their existing wilderness qualities. This provides time for Congress to decide which of these lands to include as wilderness.

When Congress designates areas as wilderness, the Forest Service will manage those lands accordingly.

The Forest Service will continue to manage those lands recommended by the President for wilderness to protect their wilderness qualities until it becomes clear that Congress does not intend to designate the lands as wilderness. If the Congress, preferably in the House and Senate or Conference Committee Reports, gives the Forest Service a clear indication that it does not intend to designate the lands, the Forest Service will comply with that direction. In the absence of congressional expression, the Forest Service will continue to manage the lands to protect their wilderness character until the Administration determines that it is clear that Congress does not intend to designate the lands as wilderness or until the Administration revises its recommendation. Since the total wilderness recommendations made by the Administration following RARE II are extensive, congressional review and action on the recommendations almost certainly will take a lengthy period of time.

Question 4: What is the Administration's position on statutory release of roadless areas to nonwilderness, multiple-use management?

Answer: The Administration opposes any form of statutory release because such action is considered unnecessary.

During the 2-year accelerated planning effort of RARE II, the wilderness characteristics of all roadless areas were protected by administratively limiting resource development activities. President Carter's statement of April 6, 1979, directed Secretary Bergland to proceed immediately with management of the 36-million acres allocated to nonwilderness. We are managing these areas in accordance with the President's direction, and under existing laws and regulations, such as the Multiple-Use Sustained-Yield Act of 1960, the National Forest Management Act of 1976, and the recently promulgated National Forest Management Act regulations. We have clear authority and direction for multiple-use management of National Forest lands. The Secretary of Agriculture has sufficient direction and authority under existing law to manage areas allocated to nonwilderness uses.

Question 5: In some instances, the final Colorado wilderness legislation is likely to designate as wilderness part, but not all, of an area recommended by the Administration. Will the Administration interpret this as an overall congressional decision on the entire area, indicating that Congress does not intend to designate as wilderness the part of the area recommended by the Administration but not designated by the legislation? How would the Forest Service then manage the part of the area which was not designated by the legislation?

Answer: Under established custom, the Administration will consider congressional wilderness designation of a part of an area recommended by the Administration to be congressional action on the entire recommended area, unless the Congress, by committee report language or some other fashion, indicates otherwise. The Administration then will take this as a clear indication of congressional intent that the remainder of the recommended area should not be designated as wilderness. In the absence of any other indication of congressional intent that the remainder of the area should be allocated to further planning, the Forest Service would allocate the remainder of the area to nonwilderness. If Congress, in committee report language or otherwise, indicated that the remainder of the recommended area should be allocated to further planning, the Forest Service would follow that directive.

Question 6: The final Colorado wilderness bill is unlikely to designate as wilderness all of the areas recommended by the Administration. If the conference committee report accompanying the final bill lists some of the remaining areas, indicates that Congress does not intend to designate the listed areas as wilderness, and directs the Department to release the lands and allocate them to nonwilderness, how will the Department respond to that directive? If the report lists other areas, indicates that Congress wants more detailed study of the lands, and directs the Department to release the lands and allocate them to further planning, how will the Department respond to that directive?

Answer: We would consider the following statement if included in the conference committee report to be an adequate indication of legislative intent to manage for nonwilderness uses a RARE II roadless area that had been recommended as wilderness by the Administration:

"We have carefully examined the Administration's recommendation that ——— roadless area (RARE II No. —) be designated as wilderness. We have determined that the area should not be designated wilderness but should instead be managed for multiple uses other than wilderness."

Upon final enactment of the bill, we would follow the above report direction.

Question 7: If Congress were to include in the Colorado wilderness legislation a provision to preclude a judicial decision with respect to the Colorado RARE II lands similar to the decision issued in the case of California v. Bergland with respect to the California RARE II lands, what language would the Department recommend for that purpose?

Answer: The Department does not recommend or support the inclusion of such special language in the Colorado wilderness legislation. The following provision would serve the purpose described in your question: "The enactment of this legislation shall be conclusive as to the legal and factual sufficiency of the Department of Agriculture's final environmental impact statement, dated January 1979, prepared for the roadless area review and evaluation (RARE II) of National Forest lands in the State of Colorado."

I hope this information will be helpful as you continue consideration of the Colorado wilderness legislation.

Sincerely,

BOB BERGLAND,
Secretary.

DEVELOPMENT ACTIVITIES ON COLORADO RARE II LANDS RELEASED TO NONWILDERNESS MANAGEMENT ON APR. 16, 1979

RARE II No.: RARE II name: Activity description	Acres impacted	Miles of roads	Timber sale volume (MBF)
B2177: Porphyry Mountain: Basalt Mountain	400	10.8	5,500
02146: Two Elk: Timber Creek	800	4.5	2,400
02141: Ten Mile: Ski area expansion	780		
02141: Ten Mile: Applications	171,600		
02141: Ten Mile: Leases	110,240		
Do	8,320		
02141: Ten Mile: Operating plans	10		
Do	40		
02172: Adam Mountain: Adams Rib ski area			
B2180: Elk Mountain—Collegiate: Little Annie ski area			
C2284: South San Juan: Oil and gas leases	820		
Do	200		
Do	6,380		
02285: Treasure Mountain: Fall Creek	100		650
02287: Martinez Creek: Recon/sale (Fourmile)	840	4.0	6,700
B2284: South San Juan: Oil and gas lease	680		
B2294: Florida River: Oil and gas lease	350		
Do	180		
02235: Lizard Head: Oil and gas leases	6,725		
02304: Blackhawk Mountain: Oil and gas leases	315		

RARE II No.: RARE II name: Activity description	Acres impacted	Miles of roads	Timber sale volume (MBF)
02304: Blackhawk Mountain: Hermosa	97		4,600
02304: Blackhawk Mountain: Tin Can Basin	194		1,200
02315: Ryman: Oil and gas leases	7,750		
D2306: Hermosa: Oil and gas leases	80		
Do	220		
Do	2,400		
B2302: East Animas: Timber sale	27		935
D2284: South San Juan: Oil and gas leases	100		
02194: Nick Mountain: 4 applications	6,550		
B2195: West Elk: 3 applications	5,376		
B2196: West Elk: 31 leases	64,688		
B2196: West Elk: Upper Red Creek	790		1,000
B2198: Beaver-Castle: Rainbow Lake	720		1,700
02200: Whetstone Mountain: 1 application	2,140		
02201: Flattop Mountain: 3 applications	5,000		
02201: Flattop Mountain: 3 leases	2,758		
02201: Flattop Mountain: 1 operating plan			
02205: Kreutzer-Princeton: Cow Creek	3,000		1,500
02206: Romley: Mirror Lake Salv	600		300
02207: Canyon Creek: 2 applications	4,185		
02224: Uncompahgre: Applications	7,680		
02226: Cimarron: 1 application	2,240		
02232: Iron Mountain: 1 application	2,022		
02245: Ute Creek: 9 applications	19,679		
02245: Ute Creek: TV translator			
02246: Campbell Point: 1 application	2,258		
02247: Johnson Creek: 2 applications	4,454		
02358: Chipeta: Posts and poles	240		130

RARE II No.: RARE II name: Activity description	Acres impacted	Miles of roads	Timber sale volume (MBF)
02248: Silverheels: Oil and gas lease	740		
02253: Thirtynine Mile: Oil and gas lease	520		
Do	2,940		
02256: Front Range: Post and fuelwood	100		150
B2271: Spanish Peaks: Oil and gas lease	2,250		
C2266: Sangre De Cristo: Oil and gas lease	1,200		
02143: Jefferson: Oil and gas leasing	120		
02264: Starvation Creek: Pole and post timber	100		50
02344: Puma: Oil and gas lease	7,240		
02358: Chipeta: Posts and poles	240		100
02305: Storm Peak: Oil and gas leases	16,240		
Do	14,990		
Do	22,200		
02305: Storm Peak: Shcas Park	1,100	9.0	6,000
02305: Storm Peak: Blow down sale	388		0.3
02295: HD Mountain: Oil and gas leases	10,410		
Do	7,285		
Do	2,640		
B2292: Piedra: Oil and gas leases	850		
Do	240		
B2292: Piedra: Trail Ridge	1,500		9,500
B2292: Piedra: Lower Middle Mountain	3,500		8,000
C2306: Hermosa: Oil and gas leases	12,850		
Do	4,190		
E2284: South San Juan: Oil and gas leases	2,400		
Do	7,870		
Do	100		

The PRESIDING OFFICER. Is there further morning business?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ILLEGAL IMMIGRATION

Mr. HARRY F. BYRD, JR. Mr. President, I can understand the desire of anyone to immigrate to the United States. In my mind it is the best of all countries in which to live and work. Despite some of our problems, it is the best country in the world. These days it appears the whole world thinks so, too, and it appears they are not only knocking on the door, but entering in droves—illegally.

For many years, we have found it necessary to limit immigration; laws were passed for that purpose. Provisions were made for family unification, quotas were established, penalties were established for smuggling of undocumented aliens. These laws have daily—indeed hourly—been violated.

Our immigration law establishes quotas—numerical ceilings—on immigration, basically in recognition of our concerns for our resources and environment and the impact that unrestricted immigration would have on American workers, our population growth, and the cost of social services.

These are things I care about. Our first and foremost obligation and consideration is to American citizens and lawfully, I repeat, lawfully admitted alien residents. Our immigration laws should be strictly enforced and immediate action taken to do so.

True refugee status or applications for political asylum should be carefully considered on a case by case basis. A blanket designation for any group (as a group or nationality) should be rejected.

I am especially alarmed, and there has been ample reported evidence, that many entering our country today are not bona fide refugees, nor would they otherwise be eligible for admission—felons, those with communicable disease, or mental incapacity.

Too, there is a question of fairness and equity in immigration policy. It is not fair or equitable to admit unlimited numbers of one country or nationality and restrict others, nor can we open the door to the whole world.

We simply cannot take care of the whole world—whether it be through aid or admission to this country.

This is particularly so when we are confronted with the highest rate of inflation in our history, climbing unemployment, housing limitations, and inflated taxes.

The Department of Labor announced just recently that our current rate of unemployment is 7 percent, or slightly over 7 million unemployed in the United States. The Congressional Budget Office figures used in the first concurrent budget resolution estimated unemployment would rise to 7.3 percent in the last quarter of 1980, and 7.5 percent in calendar year 1981, when roughly 7.8 million workers will be jobless. These projections are generally conceded to be optimistic, considering the large layoffs in the automobile industry in recent weeks and other indicators, which were not anticipated when the CBO figures were developed.

Unemployment statistics are more than figures. They are Americans and lawfully admitted aliens who want to work, who need to work, who have families to support, feed, and shelter.

These are people—real people—our people; people who have already or will be adversely affected by an economy gone awry; American workers who have been consistent and continuous contributors in our society and taxpayers.

Unemployment compensation and other social programs to ease the impact on American workers when jobs are lost are not infinite. To the maximum extent possible, entitlement to these resources should be reserved to meet the needs of unemployed American workers, not illegal immigrants.

Nor should American workers who will be competing with other American unemployed workers in the current scarce job market be forced also to compete with huge numbers of illegal aliens.

Tax dollars of those fortunate enough to be working are already severely strained to provide social services not only for unemployed American workers, but for the American poor, the disabled, and the elderly. We cannot afford—fiscally or physically—to provide these services for unlimited numbers of illegal aliens.

I recently cosponsored with Senator PERCY amendments to H.R. 3236, which would make aliens ineligible for SSI (Supplemental Security Income), the Federal welfare program, for 3 years after entry into the United States and to make affidavits of support by family members or sponsors legally enforceable. The Senate passed these provisions and the legislation is currently pending in conference. I hope for—indeed I urge—approval by the conferees.

I shall pursue other areas of taxpayer relief from the burden of illegal immigration. I strongly support strict enforcement of our immigration laws and vigorously oppose continued illegal immigration, particularly mass influx from first one part of the world and then another.

The announcement by the President last Wednesday imposing sanctions on further transport of aliens should have been taken at the outset.

This activity was as illegal in the beginning as it is today.

The President's responsibility is to execute the laws enacted by Congress—not to ignore or discard them, nor to aid and abet those who do.

Because the administration at first condoned these activities, and in fact assisted them, these belated orders thus far are apparently being flagrantly defied.

As of Sunday, approximately 52,000 illegal immigrants had arrived in Florida

and arrivals are continuing at the rate of about 4,000 per day.

The administration must bar further illegal immigration to our shores and restrict the number of would-be immigrants in accordance with the statutory requirements, in an orderly and rational manner.

As I said earlier, we simply cannot take care of the whole world.

FIRST CONCURRENT BUDGET RESOLUTION

Mr. HARRY F. BYRD, JR. Mr. President, the conference report on the budget resolution, which passed the Senate recently and is now in a committee of conference, soon will be reported to the Senate.

I feel that the first concurrent resolution provided too large an increase in Government spending. It is provided an increase of $65 billion in the cost of Government.

I have a letter from the American Farm Bureau Federation signed by Robert B. Delano, president.

This letter urged Congress to get its Government spending under control, balance the budget, and it ended up by saying:

Farm Bureau's 3 million member families are willing to make their share of sacrifice in order to control inflation and to restore good health to the economy.

Mr. President, I ask unanimous consent that this letter from President Delano and the accompanying policy statement adopted by the board of directors of the American Farm Bureau Federation on March 3, 1980, be printed in the RECORD.

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

AMERICAN FARM BUREAU FEDERATION,
Washington, D.C., April 24, 1980.

HON. HARRY FLOOD BYRD, JR.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BYRD: The Senate is beginning consideration of the First Concurrent Budget Resolution at a time in our economic history when the annual inflation rate is over 18 percent; farmers are faced with lower income due to inflation, depressed markets, and credit conditions that are sure to prevent some from planting this spring.

The Nation is in great need of fundamental changes in both monetary and fiscal policy. Fundamental changes in monetary policy were begun by Chairman Volcker in October 1979 in an effort to bring the supply of money and credit under control to check inflation. Farm Bureau supports the Federal Reserve effort but the Fed cannot control inflation alone. Congress must cooperate with the Federal Reserve by reducing federal expenditures to balance the budget.

Congress is now presented an excellent opportunity to bring inflation under control by cutting federal expenditures to balance the federal budget. This task is both challenging and ominous. Americans are calling for accountability from each member of Congress to look beyond the demands of special interest for the good of the nation.

Farm Bureau supports a balanced budget by meaningful reductions in federal suending. The attached policy statement issued by the AFBF Board of Directors in March supports all efforts to balance the budget by cutting federal spending.

Farm Bureau's three million member families are willing to make their share of sacrifice in order to control inflation and to restore good health to the economy. We ask you for your commitment to this cause.

ROBERT B. DELANO,
President.

POLICY STATEMENT OF THE BOARD OF DIRECTORS, AMERICAN FARM BUREAU FEDERATION

Farm Bureau members throughout the nation are alarmed at the runaway inflation which is rapidly approaching an annual rate of 20 percent. We are skating on the edge of an economic disaster at a time when we face grave international threats to the free world. Resolute action must be taken to stop inflation before it completely wrecks our economic and social system.

We reject the notion that it is impossible to identify the causes of inflation and come up with long-run solutions that will work. The American people understand very well that the basic cause is excessive spending and deficit financing by the federal government. Inflated prices and wages are the results of inflation; not its cause.

We reject the fallacious idea that wage and price controls are a cure for inflation. Farmers and consumers are still suffering from the results of the last effort to control beef prices. Such controls have never worked and would not work now, because they treat only the symptoms of inflation rather than its basic causes.

We call on the President and the leaders of both political parties to put politics aside and to reach agreement on an affirmative program of effective actions to be taken during the next 60 days. This agreement should include actions to rescind $30 billion of the expenditures authorized for this fiscal year, to be implemented by a careful review of every budget item, and further action to reduce the 1981 budget, which Congress is now considering, by $30 billion.

In some cases, these actions will require a review and revision of basic legislation which is causing a rapid escalation of the cost of civil service salaries, transfer payments and other entitlement programs. Farmers are willing to take their share of the sacrifices that are needed to bring inflation under control by accepting proportional cuts in the Department of Agriculture's budget as a part of an overall reduction in the total federal budget.

In addition to drastic cuts in federal spending, a concerted attack on inflation should include tax reforms to encourage savings and investment as a means of increasing productivity; a large-scale elimination of excessive and unnecessary government regulation; and a realistic energy policy which will provide greater freedom for the market system to reduce our dependence on imported oil by encouraging conservation and expanding the production of domestic sources of energy.

We reiterate, however, that the most important and essential step that can be taken to stop inflation is for the federal government itself to stop creating inflation through excessive spending and deficit financing which leads to the printing of money. Significant cuts in federal spending are needed to break the psychology of inflation and to reinforce the courageous efforts of the Federal Reserve Board to restrain the growth of the money supply.

"Politics as usual" will not stop inflation. What we need is dramatic action by the President and the Congress to set aside partisan politics for a few weeks and to convince Americans that their political leaders intend to do more than just talk about the need to bring inflation under control.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SARA ANN STEVENS COVICH

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority whip, Mr. TED STEVENS, is in Alaska to see his daughter Susan and his first granddaughter, Sara Ann.

Sara Ann is quite a healthy baby. She weighed 7 pounds and 11 ounces and she was 21 inches in length. Sara Ann was born at 3:54 a.m. (Anchorage time), Saturday, May 17. Sara Ann's proud parents are Susan and David Covich. Susan is the oldest of the Stevens children.

I can understand the pride with which Senator STEVENS has announced the birth of his first granddaughter.

This is his first taste of immortality. He has reached a new plateau in life.

I used to listen to doting grandpartents talk about their grandchildren. And I thought it could never be so—all those wonderful things they had to say about grandchildren.

But I can tell you it is a fact—every word is so!

I have six grandchildren—two granddaughters and four grandsons, and so I have a feeling of joy with TED as he looks upon the face of his little granddaughter Sara Ann. I congratulate him. his daughter Susan and son-in-law David and wish them and their daughter—TED's granddaughter—the best of every good thing in the world.

I know that my colleagues share with me this feeling of happiness for Senator TED STEVENS.

THE UNITED STATES SENATE

Mr. ROBERT C. BYRD. Mr. President, when Mr. GEORGE MITCHELL was sworn in as a new Senator from Maine yesterday, he was the 1,735th United States Senator. This figure includes all of the Senators in the United States. going back to the year 1789, when the first Senate met, and continuing through this day.

I secured this information from the Library of Congress Research Service, Sula Richardson, who in turn obtained the figure from the Inter-University Consortium for Political and Social Research which used a computer system to arrive at its total. This facility is part of the University of Michigan in Ann Arbor, Michigan.

Mr. President, I ask unanimous consent to have printed in the RECORD the names of all of the United States Senators who have served between the years 1789 and 1980 inclusive.

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

INDEX OF SENATORS OF THE UNITED STATES

A

Abbott, Joseph C.; N.C.
Abel, Hazel H.; Nebr.
Abourezk, James; S. Dak.
Adair, John; Ky.
Adams, Alva B.; Colo.
Adams, John Quincy; Mass.
Adams, Robert H.; Miss.
Adams, Stephen; Miss.
Aiken, George D.; Vt.
Alcorn, James L.; Miss.
Aldrich, Nelson W.; R.I.
Alger, Russell A.; Mich.
Allee, James F.; Del.
Allen, Henry J.; Kans.
Allen, James B.; Ala.
Allen, John B.; Wash.
Allen, Maryon Pittman; Ala.
Allen, Philip; R.I.
Allen, William; Ohio.
Allen, William V.; Nebr.
Allison, William B.; Iowa.
Allott, Gordon; Colo.
Ames, Adelbert; Miss.
Anderson, Alexander; Tenn.
Anderson, Clinton P.; N. Mex.
Anderson, Joseph; Tenn.
Anderson, Wendell R.; Minn.
Andrews, Charles O.; Fla.
Ankeny, Levi; Wash.
Anthony, Henry B.; R.I.
Archer, William S.; Va.
Armstrong, David H.; Mo.
Armstrong, John; N.Y.
Armstrong, William L.; Colo.
Arnold, Samuel G.; R.I.
Ashley, Chester; Ark.
Ashmun, Eli P.; Mass.
Ashurst, Henry Fountain; Ariz.
Atchison, David R.; Mo.
Atherton, Charles G.; N.H.
Austin, Warren R.; Vt.

B

Bachman, Nathan L.; Tenn.
Bacon, Augustus O.; Ga.
Badger, George E.; N.C.
Bagby, Arthur P.; Ala.
Bailey, James E.; Tenn.
Bailey, Joseph W.; Tex.
Bailey, Josiah W.; N.C.
Bailey, Theodorus; N.Y.
Baird, David; N.J.
Baird, David, Jr.; N.J.
Baker, David J.; Ill.
Baker, Edward D.; Oreg.
Baker, Howard H., Jr.; Tenn.
Baker, Lucien; Kans.
Baldwin, Abraham; Ga.
Baldwin, Henry P.; Mich.
Baldwin, Raymond E.; Conn.
Baldwin, Roger S.; Conn.
Ball, Joseph H.; Minn.
Ball, L. Heisler; Del.
Bankhead, John H.; Ala.
Bankhead, John H., 2d; Ala.
Barbour, James C.; Va.
Barbour, John S., Jr.; Va.
Barbour, W. Warren; N.J.
Bard, Thomas R.; Calif.
Barkley, Alben W.; Ky.
Barnard, Isaac D.; Pa.
Barnum, William H.; Conn.
Barnwell, Robert W.; S.C.
Barrett, Frank A.; Wyo.
Barrow, Alexander; La.
Barrow, Pope; Ga.
Barry, Alexander G.; Oreg.
Barry, William T.; Ky.
Bartlett, Dewey F.; Okla.
Bartlett, E. L.; Alaska.
Barton, David; Mo.
Bass, Ross; Tenn.
Bassett, Richard; Del.
Bate, William B.; Tenn.
Bateman, Ephraim; N.J.
Bates, Isaac C.; Mass.
Bates, Martin W.; Del.
Baucus, Max; Mont.
Bayard, James A., Jr., Del.
Bayard, James A., Sr., Del.
Bayard, Richard H.; Del.
Bayard, Thomas F., Jr., Del.
Bayard, Thomas F., Sr., Del.
Bayh, Birch; Ind.
Beall, J. Glenn; Md.
Beall, J. Glenn, Jr., Md.
Beck, James B.; Ky.
Beckham, John C. W.; Ky.
Beckwith, John C. W.; Wyo.[1]
Bell, Charles H.; N.H.
Bell, James; N.H.
Bell, John; Tenn.
Bell, Samuel; N.H.
Bellmon, Henry; Okla.
Bender, George H.; Ohio.
Bénet, Christie; S.C.
Benjamin, Judah P.; La.
Bennett, Wallace F.; Utah.
Benson, Alfred W.; Kans.
Benson, Elmer A.; Minn.
Benton, Thomas H.; Mo.
Benton, William, Conn.
Bentsen, Lloyd M., Jr.; Tex.
Berrien, John M.; Ga.
Berry, George L.; Tenn.
Berry, James H.; Ark.
Betts, Thaddeus; Conn.
Beveridge, Albert J.; Ind.
Bibb, George M.; Ky.
Bibb, William W.; Ga.
Bible, Alan; Nev.
Biden, Joseph R., Jr.; Del.
Biggs, Asa; N.C.
Bigler, William; Pa.
Bilbo, Theodore G.; Mass.
Bingham, Hiram; Conn.
Bingham, Kinsley S.; Mich.
Bingham, William; Pa.
Black, Hugo; Ala.
Black, John; Miss.
Blackburn, Joseph C. S.; Ky.
Blaine, James G.; Maine.
Blaine, John J.; Wis.
Blair, Francis P.; Mo.
Blair, Henry W.; N.H.
Blakley, William A.; Tex.
Blanchard, Newton C.; La.
Blease, Coleman L.; S.C.
Bledsoe, Jesse; Ky.
Blodgett, Rufus; N.J.
Bloodworth, Timothy; N.C.
Blount, William; Tenn.
Boardman, Elijah; Conn.
Boggs, J. Caleb; Del.
Bogy, Lewis V.; Mo.
Bone, Homer T.; Wash.
Booth, Newton; Calif.
Borah, William E.; Idaho.
Boreman, Arthur I.; W. Va.
Boren, David L.; Okla.
Borland, Solon; Ark.
Boschwitz, Rudy; Minn.
Bottum, Joe H.; S. Dak.
Bouligny, Dominique; La.
Bourne, Jonathan, Jr.; Oreg.
Boutwell, George S.; Mass.
Bowden, Lemuel L.; Va.
Bowen, Thomas M.; Colo.
Bowring, Eva; Nebr.
Bradbury, James W.; Maine.
Bradford, William; R.I.
Bradley, Bill; N.J.
Bradley, Stephen R.; Vt.
Bradley, William O.; Ky.
Brady, James H.; Idaho.
Bragg, Thomas; N.C.
Brainerd, Lawrence; Vt.
Branch, John; N.C.
Brandegee, Frank B.; Conn.
Bratton, Sam G.; N. Mex.
Breckinridge, John; Ky.
Breckinridge, John C.; Ky.
Breese, Sidney; Ill.
Brent, Richard; Va.
Brewster, Daniel B.; Md.
Brewster, Ralph O.; Maine.
Brice, Calvin S.; Ohio.
Bricker, John W.; Ohio.
Bridges, Styles; N.H.
Briggs, Frank O.; N.J.
Briggs, Frank P.; Mo.
Bright, Jesse D.; Ind.
Bristow, Joseph L.; Kans.
Brock, William E.; Tenn.
Brock, William E., III; Tenn.
Broderick, David C.; Calif.
Brodhead, Richard; Pa.
Brooke, Edward W.; Mass.
Brooke, Walker; Miss.
Brookhart, Smith W.; Iowa.
Brooks, C. Wayland; Ill.
Broughton, J. Melvill; N.C.
Broussard, Edwin S.; La.
Broussard, Robert F.; La.
Brown, Albert G.; Miss.
Brown, Arthur Y., Utah.
Brown, Bedford; N.C.
Brown, B. Gratz; Mo.
Brown, Ernest S.; Nev.
Brown, Ethan A.; Ohio.
Brown, Fred H.; N.H.
Brown, James; La.
Brown, John; Ky.
Brown, Joseph E.; Ga.
Brown, Norris; Nebr.
Brown, Prentiss M.; Mich.
Browning, Orville H.; Ill.
Brownlow, William G.; Tenn.
Bruce, Blanche K.; Miss.
Bruce, William Cabell; Md.
Brunsdale, C. Norman; N. Dak.
Bryan, Nathan P.; Fla.
Bryan, William J.; Fla.
Buchanan, James; Pa.
Buck, C. Douglass; Del.
Buckalew, Charles R.; Pa.
Buckingham, William A.; Conn.
Buckley, James L.; N.Y.
Buckner, Alexander; Mo.
Bulkeley, Morgan G., Conn.
Bulkley, Robert J.; Ohio.
Bulloch, William B.; Ga.
Bulow, William J.; S. Dak.
Bumpers, Dale; Ark.
Bunker, Berkeley L.; Nev.
Burch, Thomas G.; Va.
Burdick, Quentin N.; N. Dak.
Burke, Edward R.; Nebr.
Burke, Thomas A.; Ohio.
Burkett, Elmer J.; Nebr.
Burleigh, Edwin C.; Maine.
Burnet, Jacob; Ohio.
Burnham, Henry E.; N.H.
Burnside, Ambrose E.; R.I.
Burr, Aaron; N.Y.
Burrill, James, Jr.; R.I.
Burrows, Julius C.; Mich.
Bursum, Holm O.; N. Mex.
Burton, Harold H.; Ohio.
Burton, Joseph R.; Kans.
Burton, Theodore E.; Ohio.
Bush, Prescott; Conn.
Bushfield, Harlan J.; S. Dak.
Bushfield, Vera C.; S. Dak.
Butler, Andrew P.; S.C.
Butler, Hugh; Nebr.
Butler, John M.; Md.
Butler, Marion; N.C.
Butler, Matthew C.; S.C.
Butler, Pierce; S.C.
Butler, William M.; Mass.
Byrd, Harry Flood; Va.
Byrd, Harry F., Jr.; Va.
Byrd, Robert C.; W. Va.
Byrnes, James F.; S.C.

C

Cabot, George; Mass.
Caffery, Donelson; La.
Cain, Harry P.; Wash.
Calder, William M.; N.Y.
Caldwell, Alexander; Kans.
Calhoun, John C.; S.C.
Call, Wilkinson; Fla.
Camden, Johnson N.; W. Va.

[1] Appointed by governor, but did not qualify.

Camden, Johnson N., Jr.; Ky.
Cameron, Angus; Wis.
Cameron, James D.; Pa.
Cameron, Ralph H.; Ariz.
Cameron, Simon; Pa.
Campbell, Alexander; Ohio.
Campbell, George W.; Tenn.
Cannon, Frank J.; Utah.
Cannon, Howard W.; Nev.
Capehart, Homer E.; Ind.
Caperton, Allen T.; W. Va.
Capper, Arthur; Kans.
Caraway, Mrs. Hattie W.; Ark.
Caraway, Thaddeus H.; Ark.
Carey, Joseph M.; Wyo.
Carey, Robert D.; Wyo.
Carlile, John S.; Va.
Carlisle, John G.; Va.
Carlson, Frank; Kans.
Carmack, Edward W.; Tenn.
Carpenter, Matthew H.; Wis.
Carroll, Charles, of Carrollton; Md.
Carroll, John A.; Colo.
Carter, Thomas H.; Mont.
Carville, E. P.; Nev.
Case, Clifford P.; N.J.
Case, Francis; S. Dak.
Casey, Lyman, R.; N. Dak.
Cass, Lewis; Mich.
Casserly, Eugene; Calif.
Cathcart, Charles W.; Ind.
Catron, Thomas B.; N. Mex.
Cattell, Alexander G.; N.J.
Chace, Jonathan; R.I.
Chafee, John H.; R.I.
Chaffee, Jerome B.; Colo.
Chalmers, Joseph W.; Miss.
Chamberlain, George E.; Oreg.
Chambers, Ezekiel F.; Md.
Chambers, Henry H.; Ala.
Champlin, Christopher G.; R.I.
Chandler, Albert B.; Ky.
Chandler, John; Maine
Chandler, William E.; N.H.
Chandler, Zachariah; Mich.
Chapman, Virgil; Ky.
Charlton, Robert M.; Ga.
Chase, Dudley; Vt.
Chase, Salmon P.; Ohio
Chavez, Dennis; N. Mex.
Cheney, Person C.; N.H.
Chestnut, James Jr.; S.C.
Chilcott, George M.; Colo.
Chiles, Lawton; Fla.
Chilton, Horace; Tex.
Chilton, William E.; W. Va.
Chipman, Nathaniel; Vt.
Choate, Rufus; Mass.
Christiancy, Isaac P.; Mich.
Church, Frank; Idaho.
Cilley, Joseph; N.H.
Claiborne, William C. C.; La.
Clapp, Moses E.; Minn.
Clark, Bennett Champ; Mo.
Clark, Clarence D.; Wyo.
Clark, D. Worth; Idaho.
Clark, Daniel; N.H.
Clark, Dick; Iowa.
Clark, Joseph S.; Pa.
Clark, William A.; Mont.
Clarke, James P.; Ark.
Clarke, John H.; R.I.
Clay, Alexander S.; Ga.
Clay, Clement Claiborne Jr.; Ala.
Clay, Clement Comer; Ala.
Clay, Henry; Ky.
Clayton, Henry D.; Ala.[1]
Clayton, John M.; Del.
Clayton, Joshua; Del.
Clayton, Powell; Ark.
Clayton, Thomas; Del.
Clemens, Jeremiah; Ala.
Clements, Earle C.; Ky.
Clingman, Thomas L.; N.C.
Clinton, De Witt; N.Y.
Cobb, Thomas W.; Ga.
Cochran, Thad.; Miss.
Cocke, William; Tenn.
Cockrell, Francis M.; Mo.

[1] Appointed by governor, but withdrew.

Cohen, John S.; Ga.
Cohen, William S.; Maine.
Coke, Richard; Tex.
Cole, Cornelius; Calif.
Colhoun, John E.; S.C.
Collamer, Jacob; Vt.
Colquitt, Alfred H.; Ga.
Colquitt, Walter T.; Ga.
Colt, LeBaron B.; R.I.
Comegys, Joseph P.; Del.
Comer, Braxton B.; Ala.
Condit, John; N.J.
Conger, Omar D.; Mich.
Conkling, Roscoe; N.Y.
Connally, Tom; Tex.
Conness, John; Calif.
Conover, Simon B.; Fla.
Conrad, Charles M.; La.
Cook, Marlow W.; Ky.
Coolidge, Marcus A.; Mass.
Cooper, Henry; Tenn.
Cooper, James; Pa.
Cooper, John S.; Ky.
Copeland, Royal S.; N.Y.
Corbett, Henry W.; Oreg.
Cordon, Guy; Oreg.
Corwin, Thomas; Ohio.
Costigan, Edward P.; Colo.
Cotton, Norris; N.H.
Couzens, James; Mich.
Cowan, Edgar; Pa.
Crafts, Samuel C.; Vt.
Cragin, Aaron H.; N.H.
Crane, Winthrop M.; Mass.
Cranston, Alan; Calif.
Crawford, Coe I.; S. Dak.
Crawford, William H.; Ga.
Creswell, John A. J.; Md.
Crippa, Edward D.; Wyo.
Crittenden, John J.; Ky.
Crow, William E.; Pa.
Crozier, Robert; Kans.
Culberson, Charles A.; Tex.
Cullom, Shelby M.; Ill.
Culver, John C.; Iowa.
Cummins, Albert B.; Iowa.
Curtis, Carl T.; Nebr.
Curtis, Charles; Kans.
Cuthbert, Alfred; Ga.
Cutting, Bronson; N. Mex.
Cutts, Charles; N.H.

D

Daggett, David; Conn.
Dale, Porter H.; Vt.
Dallas, George M.; Pa.
Dalton, Tristram; Mass.
Dana, Judah; Maine.
Dana, Samuel W.; Conn.
Danaher, John A.; Conn.
Danforth, John C.; Mo.
Daniel, Charles E.; S.C.
Daniel, John W.; Va.
Daniel, Price; Tex.
Darby, Harry; Kans.
Davenport, Franklin; N.J.
Davis, Cushman K.; Minn.
Davis, David; Ill.
Davis, Garrett; Ky.
Davis, Henry G.; W. Va.
Davis, James J.; Pa.
Davis, Jeff; Ark.
Davis, Jefferson; Miss.
Davis, John; Mass.
Dawes, Henry L.; Mass.
Dawson, William C.; Ga.
Dayton, Jonathan; N.J.
Dayton, William L.; N.J.
Deboe, William J.; Ky.
DeConcini, Dennis; Ariz.
Deneen, Charles S.; Ill.
Dennis, George R.; Md.
Depew, Chauncey M.; N.Y.
De Saussure, William F.; S.C.
Destréhan, John N.; La.[1]
De Wolf, James; R.I.
Dexter, Samuel; Mass.
Dial, Nathaniel B.; S.C.
Dick, Charles W. F.; Ohio.

[1] Elected, but did not qualify.

Dickerson, Mahlon; N.J.
Dickinson, Daniel S.; N.Y.
Dickinson, L. J.; Iowa.
Dickinson, Philemon; N.J.
Dieterich, William H.; Ill.
Dietrich, Charles H.; Nebr.
Dill, Clarence C.; Wash.
Dillingham, William P.; Vt.
Dirksen, Everett M.; Ill.
Dix, John A.; N.Y.
Dixon, Archibald; Ky.
Dixon, James; Conn.
Dixon, Joseph M.; Mont.
Dixon, Nathan F., 1st; R.I.
Dixon, Nathan F., 3d; R.I.
Dodd, Thomas J.; Conn.
Dodge, Augustus C.; Iowa.
Dodge, Henry; Wis.
Dole, Robert; Kans.
Dolliver, Jonathan P.; Iowa.
Dolph, Joseph N.; Oreg.
Domenici, Pete V.; N. Mex.
Dominick, Peter H.; Colo.
Donahey, Vic; Ohio.
Donnell, Forrest C.; Mo.
Doolittle, James R.; Wis.
Dorsey, Stephen W.; Ark.
Douglas, Paul H.; Ill.
Douglas, Stephen A.; Ill.
Downey, Sheridan; Calif.
Downs, Solomon W.; La.
Doxey, Wall; Miss.
Drake, Charles D.; Mo.
Drew, Irving W.; N.H.
Dryden, John F.; N.J.
Dubois, Fred T.; Idaho.
Dudley, Charles E.; N.Y.
Duff, James H.; Pa.
Duffy, F. Ryan; Wis.
Dulles, John Foster; N.Y.
du Pont, Henry A.; Del.
du Pont, T. Coleman; Del.
Durenberger, David; Minn.
Durkee, Charles; Wis.
Durkin, John A., N.H.
Dworshak, Henry C., Idaho.

E

Eagleton, Thomas F.; Mo.
Earle, Joseph H.; S.C.
Eastland, James O.; Miss.
Eaton, John H.; Tenn.
Eaton, William W.; Conn.
Ecton, Zales N.; Mont.
Edge, Walter E.; N.J.
Edgerton, Alonzo J.; Minn.
Edmondson, J. Howard; Okla.
Edmunds, George F.; Vt.
Edwards, Edward I.; N.J.
Edwards, Elaine S.; La.
Edwards, Henry W.; Conn.
Edwards, John; Ky.
Edwards, Ninian; Ill.
Elkins, Davis; W. Va.
Elkins, Stephen B.; W. Va.
Ellender, Allen J.; La.
Ellery, Christopher; R.I.
Elliott, John; Ga.
Ellis, Powhatan; Miss.
Ellsworth, Oliver; Conn.
Elmer, Jonathan; N.J.
Elmore, Franklin H.; S.C.
Engle, Clair; Calif.
English, James E.; Conn.
Eppes, John W.; Va.
Erickson, John E.; Mont.
Ernst, Richard P.; Ky.
Ervin, Sam J., Jr.; N.C.
Eustis, James B.; La.
Evans, George; Maine.
Evans, Josiah J.; S.C.
Evarts, William M.; N.Y.
Everett, Edward; Mass.
Ewing, Thomas; Ohio.
Ewing, William L. D.; Ill.
Exon, J. J.; Nebr.

F

Fair, James G.; Nev.
Fairbanks, Charles W.; Ind.
Fairfield, John; Maine.

Fall, Albert B.; N. Mex.
Fannin, Paul J.; Ariz.
Farley, James T.; Calif.
Farwell, Charles B.; Ill.
Farwell, Nathan A.; Maine.
Faulkner, Charles J.; W. Va.
Feazel, William C.; La.
Felch, Alpheus; Mich.
Felton, Charles N.; Calif.
Felton, Mrs. Rebecca L.; Ga.
Fenner, James; R.I.
Fenton, Reuben E.; N.Y.
Ferguson, Homer; Mich.
Fernald, Bert M.; Maine.
Ferris, Woodbridge N.; Mich.
Ferry, Orris S.; Conn.
Ferry, Thomas W.; Mich.
Fess, Simeon D.; Ohio.
Fessenden, William P.; Maine.
Few, William; Ga.
Field, Richard S.; N.J.
Findlay, William; Pa.
Finley, Jesse J.; Fla.[1]
Fish, Hamilton; N.Y.
Fisk, James; Vt.
Fitch, Graham N.; Ind.
Fitzgerald, Thomas; Mich.
Fitzpatrick, Benjamin; Ala.
Flanagan, James W.; Tex.
Flanders, Ralph E.; Vt.
Fletcher, Duncan U.; Fla.
Flint, Frank P.; Calif.
Fogg, George G.; N.H.
Fong, Hiram L.; Hawaii.
Foot, Solomon; Vt.
Foote, Henry S.; Miss.
Foote, Samuel A.; Conn.
Foraker, Joseph B.; Ohio.
Ford, Wendell H.; Ky.
Forsyth, John; Ga.
Foster, Addison G.; Wash.
Foster, Dwight; Mass.
Foster, Ephraim H.; Tenn.
Foster, Henry A.; N.Y.
Foster, Lafayette S.; Conn.
Foster, Murphy J.; La.
Foster, Theodore; R.I.
Fowler, Joseph S.; Tenn.
France, Joseph I.; Md.
Francis, John B.; R.I.
Franklin, Jesse; N.C.
Frazier, James B.; Tenn.
Frazier, Lynn J.; N. Dak.
Frear, J. Allen, Jr.; Del.
Frelinghuysen, Frederick, N.J.
Frelinghuysen, Frederick T.; N.J.
Frelinghuysen, Joseph S.; N.J.
Frelinghuysen, Theodore; N.J.
Fremont, John C.; Calif.
Fromentin, Eligius; La.
Frye, William P.; Maine.
Fulbright, J. William; Ark.
Fulton, Charles W.; Oreg.
Fulton, William S.; Ark.

G

Gaillard, John; S.C.
Gallatin, Albert; Pa.
Gallinger, Jacob H.; N.H.
Gamble, Robert J.; S. Dak.
Gambrell, David H.; Ga.
Gardner, Obadiah; Maine.
Garland, Augustus H.; Ark.
Garn, E. J. "Jake"; Utah.
Gary, Frank B.; S.C.
Gay, Edward J.; La.
Gear, John H.; Iowa
Gearin, John M.; Oreg.
George, James Z.; Miss.
George, Walter F.; Ga.
German, Obadiah; N.Y.
Gerry, Peter G.; R.I.
Geyer, Henry S.; Mo.
Gibson, Charles H.; Md.
Gibson, Ernest W.; Vt.
Gibson, Ernest W. Jr.; Vt.
Gibson, Paris; Mont.
Gibson, Randal L.; La.
Gilbert, Alijah; Fla.
Giles, William B.; Va.

Gillett, Frederick H.; Mass.
Gillette, Francis; Conn.
Gillette, Guy M.; Iowa.
Gilman, Nicholas; N.H.
Glass, Carter; Va.
Glass, Frank P.; Ala.[1]
Glenn, John H.; Ohio.
Glenn, Otis F.; Ill.
Goff, Guy D.; W. Va.
Goff, Nathan; W. Va.
Goldsborough, Phillips L.; Md.
Goldsborough, Robert H.; Md.
Goldthwaite, George; Ala.
Goldwater, Barry; Ariz.
Goodell, Charles E.; N.Y.
Goodhue, Benjamin; Mass.
Goodling, Frank R.; Idaho.
Goodrich, Chauncey; Conn.
Gordon, James; Miss.
Gordon, John B; Ga.
Gore, Albert; Tenn.
Gore, Christopher; Mass.
Gore, Thomas P.; Okla.
Gorman, Arthur P.; Md.
Gossett, Charles C.; Idaho.
Gould, Arthur R.; Maine.
Graham, Frank P.; N.C.
Graham, William A.; N.C.
Grammer, Elijah S.; Wash.
Gravel, Mike; Alaska.
Graves, Mrs. Dixie Bibb; Ala.
Gray, George; Del.
Grayson, William; Va.
Green, James S.; Mo.
Green, Theodore F.; R.I.
Greene, Albert C.; R.I.
Greene, Frank L.; Vt.
Greene, Ray; R.I.
Gregg, Andrew; Pa.
Griffin, Robert P.; Mich.
Grimes, James W.; Iowa.
Griswold, Dwight; Nebr.
Griswold, Stanley; Ohio.
Gronna, Asle J.; N. Dak.
Groome, James B.; Md.
Grover, La Fayette; Oreg.
Gruening, Ernest; Alaska.
Grundy, Felix; Tenn.
Grundy, Joseph R.; Pa.
Guffey, Joseph F.; Pa.
Guggenheim, Simon; Colo.
Guion, Walter; La.
Gunn, James; Ga.
Gurney, Edward J.; Fla.
Gurney, J. Chandler; S. Dak.
Guthrie, James; Ky.
Gwin, William M.; Calif.

H

Hager, John S.; Calif.
Hale, Eugene; Maine.
Hale, Frederick; Maine.
Hale, John P.; N.H.
Hall, Wilton E.; S.C.
Hamilton, Morgan S.; Tex.
Hamilton, William T.; Md.
Hamlin, Hannibal; Maine.
Hammond, James H.; S.C.
Hampton, Wade; S.C.
Hanna, Marcus A.; Ohio.
Hanna, Robert; Ind.
Hannegan, Edward A.; Ind.
Hansbrough, Henry C.; N. Dak.
Hansen, Clifford P.; Wyo.
Hanson, Alexander C.; Md.
Hardin, Martin D.; Ky.
Harding, Benjamin F.; Oreg.
Harding, Warren G.; Ohio.
Harwick, Thomas W.; Ga.
Harlan, James; Iowa.
Harper, Robert G.; Md.
Harper, William; S.C.
Harreld, John W.; Okla.
Harris, Fred R.; Okla.
Harris, Ira; N.Y.
Harris, Isham G.; Tenn.
Harris, John S.; La.
Harris, William A.; Kans.

[1] Appointed by governor, but did not qualify.

Harris, William J.; Ga.
Harrison, Benjamin; Ind.
Harrison, Pat; Miss.
Harriton, William H; Ohio.
Hart, Gary W.; Colo.
Hart, Philip A.; Mich.
Hart, Thomas C.; Conn.
Hartke, Vance; Ind.
Harvey, James M.; Kans.
Haskel, Floyd K.; Colo.
Hastings, Daniel O.; Del.
Hatch, Carl A.; N. Mex.
Hatch, Orrin G.; Utah.
Hatfield, Henry D.; W. Va.
Hatfield, Mark O.; Oreg.
Hatfield, Paul G.; Mont.
Hathaway, William D.; Maine.
Haun, Henry P.; Calif.
Hawes, Harry B.; Mo.
Hawkes, Albert W.; N.J.
Hawkins, Benjamin; N.C.
Hawley, Joseph R.; Conn.
Hayden, Carl; Ariz.
Hayakawa, S. I.; Calif.
Hayne, Arthur P.; S.C.
Hayne, Robert Y.; S.C.
Hayward, Monroe L.; Nebr.
Haywood, William H.; N.C.
Hearst, George; Calif.
Hebert, Felix; R.I.
Heflin, Howell; Ala.
Heflin, J. Thomas; Ala.
Heinz, H. John III; Pa.
Heiskell, John N.; Ark.
Heitfeld, Henry; Idaho.
Helms, Jesse; N.C.
Hemenway, James A.; Ind.
Hemphill, John; Tex.
Henderson, Charles B.; Nev.
Henderson, J. Pinckney; Tex.
Henderson, John; Miss.
Henderson, John B.; Mo.
Hendricks, Thomas A.; Ind.
Hendricks, William; Ind.
Hendrickson, Robert C.; N.J.
Hennings, Thomas C., Jr.; Mo.
Henry, John; Md.
Hereford, Frank; W. Va.
Herring, Clyde L.; Iowa.
Heyburn, Weldon B.; Idaho.
Hickenlooper, Bourke B.; Iowa.
Hickey, John Joseph; Wyo.
Hicks, Thomas H.; Md.
Higgins, Anthony; Del.
Hill, Benjamin H.; Ga.
Hill, David B.; N.Y.
Hill, Isaac; N.H.
Hill, Joshua; Ga.
Hill, Lister; Ala.
Hill, Nathaniel P.; Colo.
Hill, William L.; Fla.
Hillhouse, James; Conn.
Hindman, William; Md.
Hiscock, Frank; N.Y.
Hitchcock, Gilbert M.; Nebr.
Hitchcock, Herbert E.; S. Dak.
Hitchcock, Phineas W.; Nebr.
Hoar, George F.; Mass.
Hobart, John S.; N.Y.
Hoblitzell, John D., Jr.; W. Va.
Hodges, Kaneaster, Jr.; Ark.
Hoey, Clyde R.; N.C.
Holland, Spessard L.; Fla.
Hollings, Ernest F.; S.C.
Hollis, Henry F.; N.H.
Holman, Rufus C.; Oreg.
Holmes, David; Miss.
Holmes, John; Maine.
Holt, Rush, D.; W. Va.
Hopkins, Albert J.; Ill.
Horsey, Outerbridge; Del.
Houston, Andrew Jackson; Tex.
Houston, George S.; Ala.
Houston, Sam; Tex.
Howard, Guy V.; Minn.
Howard, Jacob M.; Mich.
Howard, John E.; Md.
Howe, Timothy O.; Wis.
Howell, James B.; Iowa.
Howell, Jeremiah B.; R.I.
Howell, Robert B.; Nebr.

Howland, Benjamin; R.I.
Hruska, Roman L.; Nebr.
Hubbard, Henry; N.H.
Huddleston, Walter D.; Ky.
Huffman, James W.; Ohio.
Huger, Daniel E.; S.C.
Hughes, Charles J., Jr.; Colo.
Hughes, Harold E., Iowa.
Hughes, James H.; Del.
Hughes, William; N.J.
Hull, Cordell; Tenn.
Humphrey, Gordon J.; N.H.
Humphrey, Hubert H.; Minn.
Humphrey, Muriel; Minn.
Humphreys, Robert; Ky.
Hunt, Lester C.; Wyo.
Hunter, John; S.C.
Hunter, Richard C.; Nebr.
Hunter, Robert M. T.; Va.
Hunter, William; R.I.
Huntington, Jabez W.; Conn.
Hunton, Eppa; Va.
Husting, Paul O.; Wis.

I

Ingalls, John J.; Kans.
Inouye, Daniel K.; Hawaii.
Irby, John L. M.; S.C.
Iredell, James; N.C.
Iverson, Alfred; Ga.
Ives, Irving M.; N.Y.
Izard, Ralph; S.C.

J

Jackson, Andrew; Tenn.
Jackson, Henry M.; Wash.
Jackson, Howell E.; Tenn.
Jackson, James; Ga.
Jackson, Samuel D.; Ind.
Jackson, William P.; Md.
James, Charles T.; R.I.
James, Ollie M.; Ky.
Jarnagin, Spencer; Tenn.
Jarvis, Thomas J.; N.C.
Javits, Jacob K.; N.Y.
Jenner, William E.; Ind.
Jenness, Benning W.; N.H.
Jepsen, Roger W.; Iowa.
Jewett, Daniel T.; Mo.
Johnson, Andrew; Tenn.
Johnson, Charles F.; Maine.
Johnson, Edwin C.; Colo.
Johnson, Edwin S.; S. Dak.
Johnson, Henry; La.
Johnson, Herschel V.; Ga.
Johnson, Hiram W.; Calif.
Johnson, Lyndon B.; Tex.
Johnson, Magnus; Minn.
Johnson, Martin N.; N. Dak.
Johnson, Reverdy; Md.
Johnson, Richard M.; Ky.
Johnson, Robert W.; Ark.
Johnson, Waldo P.; Mo.
Johnson, William S.; Conn.
Johnston, J. Bennett; La.
Johnston, John W.; Va.
Johnston, Joseph F.; Ala.
Johnston, Josiah S.; La.
Johnston, Olin D.; S.C.
Johnston, Rienzi M.; Tex.
Johnston, Samuel; N.C.
Jonas, Benjamin F.; La.
Jones, Andrieus A.; N. Mex.
Jones, Charles W.; Fla.
Jones, George; Ga.
Jones, George W.; Iowa.
Jones, James C.; Tenn.
Jones, James K.; Ark.
Jones, John P.; Nev.
Jones, Wesley L.; Wash.
Jordan, B. Everett; N.C.
Jordan, Len B.; Idaho.

K

Kane, Elias K.; Ill.
Kassebaum, Nancy Landon; Kans.
Kavanaugh, William M.; Ark.
Kean, Hamilton F.; N.J.
Kean, John; N.J.
Kearns, Thomas; Utah.
Keating, Kenneth B.; N.Y.
Kefauver, Estes; Tenn.
Kellogg, Frank B.; Minn.
Kellogg, William P.; La.
Kelly, James K.; Oreg.
Kelly, William; Ala.
Kem, James P.; Mo.
Kendrick, John B.; Wyo.
Kenna, John E.; W. Va.
Kennedy, Anthony; Md.
Kennedy, Edward M.; Mass.
Kennedy, John F.; Mass.
Kennedy, Robert F.; N.Y.
Kenny, Richard R.; Del.
Kent, Joseph; Md.
Kenyon, William S.; Iowa.
Kern, John W.; Ind.
Kernan, Francis; N.Y.
Kerr, John L.; Md.
Kerr, Joseph; Ohio.
Kerr, Robert S.; Okla.
Key, David M.; Tenn.
Keyes, Henry W.; N.H.
Kilgore, Harley M.; W. Va.
King, John P.; Ga.
King, Preston, N.Y.
King, Rufus; N.Y.
King, William H.; Utah.
King, William R.; Ala.
Kirby, William F.; Ark.
Kirkwood, Samuel J.; Iowa.
Kitchell, Aaron; N.J.
Kittredge, Alfred B.; S. Dak.
Knight, Nehemiah R.; R.I.
Knowland, William F.; Calif.
Knox, Philander C.; Pa.
Kuchel, Thomas H.; Calif.
Kyle, James H.; S. Dak.

L

Lacock, Abner; Pa.
Ladd, Edwin F.; N. Dak.
La Follette, Robert M.; Wis.
La Follette, Robert M., Jr.; Wis.
Laird, William R., III; W. Va.
Lamar, Lucius Q. C.; Miss.
Lambert, John; N.J.
Lane, Harry; Oreg.
Lane, Henry S.; Ind.
Lane, James H.; Kans.
Lane, Joseph; Oreg.
Langdon, John; N.H.
Langer, William; N. Dak.
Lanman, James; Conn.
Lapham, Elbridge G.; N.Y.
Larrazolo, Octaviano A.; N. Mex.
Latham, Milton S.; Calif.
Latimer, Asbury C.; S.C.
Latimer, Henry; Del.
Laurance, John; N.Y.
Lausche, Frank J., Ohio.
Laxalt, Paul; Nev.
Lea, Luke; Tenn.
Leahy, Edward L.; R.I.
Leahy, Patrick J.; Vt.
Leake, Walter; Miss.
Lee, Blair; Md.
Lee, Josh; Okla.
Lee, Richard H.; Va.
Lehman, Herbert H.; N.Y.
Leib, Michael; Pa.
Leigh, Benjamin W.; Va.
Lennon, Alton A.; N.C.
Lenroot, Irvine L.; Wis.
Levin, Carl; Mich.
Lewis, Dixon H.; Ala.
Lewis, James Hamilton; Ill.
Lewis, John F.; Va.
Lindsay, William; Ky.
Linn, Lewis F.; Mo.
Lippitt, Henry F.; R.I.
Livermore, Samuel; N.H.
Livingston, Edward; La.
Lloyd, Edward; Md.
Lloyd, James; Md.
Lloyd, James; Mass.
Locher, Cyrus; Ohio.
Locke, Francis; N.C.
Lodge, Henry Cabot; Mass.
Lodge, Henry Cabot, Jr.; Mass.
Loftin, Scott M.; Fla.
Logan, George; Pa.
Logan, John A.; Ill.
Logan, Marvel M.; Ky.
Logan, William; Ky.
Lonergan, Augustine; Conn.
Long, Chester I.; Kans.
Long, Edward V.; Mo.
Long, Huey P.; La.
Long, Oren E.; Hawaii.
Long, Rose McDonnell; La.
Long, Russell B.; La.
Lorimer, William; Ill.
Lowrie, Walter; Pa.
Lucas, Scott W.; Ill.
Lugar, Richard G.; Ind.
Lumpkin, Alva M.; S.C.
Lumpkin, Wilson; Ga.
Lundeen, Ernest; Minn.
Lusk, Hall S.; Oreg.
Lyon, Lucius; Mich.

M

Machen, Willis B.; Ky.
Maclay, Samuel; Pa.
Maclay, William; Pa.
Macon, Nathaniel; N.C.
Magnuson, Warren G.; Wash.
Magruder, Allan B.; La.
Mahone, William; Va.
Malbone, Francis; R.I.
Mallory, Stephen R.; Fla.
Mallory, Stephen R.; Fla.
Malone, George W.; Nev.
Maloney, Francis; Conn.
Manderson, Charles F.; Nebr.
Mangum, Willie P.; N.C.
Mansfield, Mike; Mont.
Mantle, Lee; Mont.
Marcy, William L.; N.Y.
Marks, William; Pa.
Marshall, Humphrey; Ky.
Marston, Gilman; N.H.
Martin, Alexander; N.C.
Martin, Edward; Pa.
Martin, George B.; Ky.
Martin, John; Kans.
Martin, Thomas E.; Iowa.
Martin, Thomas S.; Va.
Martine, James E.; N.J.
Mason, Armistead T.; Va.
Mason, James M.; Va.
Mason, Jeremiah; N.H.
Mason, Jonathan; Mass.
Mason, Stevens T.; Va.
Mason, Wiliam E.; Ill.
Massey, William A.; Nev.
Matthewson, Elisha; R.I.
Mathias, Charles McC., Jr.; Md.
Matsunaga, Spark M.; Hawaii.
Matthews, Stanley; Ohio.
Maxey, Samuel B.; Tex.
Maybank, Burnet R.; S.C.
Mayfield, Earle B.; Tex.
McAdoo, William Gibbs; Calif.
McBride, George W.; Oreg.
McCarran, Patrick A.; Nev.
McCarthy, Eugene J.; Minn.
McCarthy, Joseph R.; Wis.
McClellan, John L.; Ark.
McClure, James A.; Idaho.
McComas, Louis E.; Md.
McConnell, William J.; Idaho.
McCormick, Medill; Ill.
McCreary, James B.; Ky.
McCreery, Thomas C.; Ky.
McCulloch, Roscoe C.; Ohio.
McCumber, Peter J.; N. Dak.
McDill, James W.; Iowa.
McDonald, Alexander; Ark.
McDonald, Joseph E.; Ind.
McDougall, James A.; Calif.
McDuffie, George; S.C.
McEnery, Samuel D.; La.
McFarland, Ernest W.; Ariz.
McGee, Gale W.; Wyo.
McGill, George; Kans.
McGovern, George; S. Dak.
McGrath, J. Howard; R.I.
McIlvaine, Joseph; N.J.
McIntyre, Thomas J.; N.H.
McKean, Samuel; Pa.
McKellar, Kenneth D.; Tenn.
McKinley, John; Ala.
McKinley, William B.; Ill.
McLane, Louis; Del.
McLaurin, Anselm J.; Miss.

McLaurin, John L.; S.C.
McLean, George P.; Conn.
McLean, John; Ill.
McMahon, Brien; Conn.
McMaster, William H.; S. Dak.
McMillan, James; Mich.
McMillan, Samuel J. R.; Minn.
McNamara, Patrick V.; Mich.
McNary, Charles L.; Oreg.
McPherson, John R.; N.J.
McRae, John J.; Miss.
McRoberts, Samuel; Ill.
Mead, James M.; N.Y.
Means, Rice W.; Colo.
Mechem, E. L.; N. Mex.
Meigs, Return J., Jr.; Ohio.
Melcher, John; Mont.
Mellen, Prentiss; Mass.
Meriwether, David; Ky.
Merrick, William D.; Md.
Merrimon, Augustus S.; N.C.
Metcalf, Jesse, H.; R.I.
Metcalf, Lee; Mont.
Metcalfe, Thomas; Ky.
Metzenbaum, Howard M.; Ohio.
Millard, Joseph H.; Nebr.
Milledge, John; Ga.
Miller, Bert H.; Idaho.
Miller, Homer V. M.; Ga.
Miller, Jack; Iowa.
Miller, Jacob W.; N.J.
Miller, John E.; Ark.
Miller, John F.; Calif.
Miller, Stephen D.; S.C.
Miller, Warner; N.Y.
Millikin, Eugene D.; Colo.
Mills, Elijah H.; Mass.
Mills, Roger Q.; Tex.
Milton, John; N.J
Milton, William H.; Fla.
Minton, Sherman; Ind.
Mitchel, Charles B.; Ark.
Mitchell, Hugh B.; Wash.
Mitchell, John H.; Oreg.
Mitchell, John I.; Pa.
Mitchell, John L.; Wis.
Mitchell, Stephen M.; Conn.
Mitchell, Samuel L.; N.Y.
Mondale, Walter F.; Minn.
Money, Hernando D.; Miss.
Monroe, James; Va.
Monroney, A. S. Mike; Okla.
Montoya, Joseph M.; N. Mex.
Moody, Blair; Mich.
Moody, Gideon C.; S. Dak.
Moor, Wyman B. S.; Maine.
Moore, A. Harry; N.J.
Moore, Andrew: Va.
Moore, Edward H.; Okla.
Moore, Gabriel; Ala.
Morehead, James T.; Ky.
Morgan, Edwin D.; N.Y.
Morgan, John T.; Ala.
Morgan. Robert: N.C.
Morrill, David L.; N.H.
Morill. Justin S.; Vt.
Morrill, Lot Myrick; Maine.
Morris, Gouverneur; N.Y.
Morris, Robert; Pa.
Morris, Thomas; Ohio.
Morrison. Cameron; N.C.
Morrow, Dwight W.; N.J.
Morrow. Jeremiah: Ohio.
Morse, Wayne L.; Oreg.
Morton, Jackson: Fla.
Morton, Oliver H. P. T.; Ind.
Morton. Thruston B.: Ky.
Moses, George H.; N.H.
Moses. John; N. Dak.
Moss, Frank E.; Utah.
Mouton, Alexander; La.
Moynihan, Daniel P.; N.Y.
Muhlenberg, John P. G.; Pa.
Mulkey, Frederick W.: Oreg.
Mundt. Karl E.; S. Dak.
Murdock, Abe; Utah.
Murphy, Edward, Jr.; N.Y.
Murphy, George; Calif.
Murphy, Maurice J., Jr.; N.H.
Murphy, Richard Louis; Iowa.
Murray, James E.; Mont.
Muskie, Edmund S.; Maine.
Myers, Francis J.; Pa.
Myers, Henry L.; Mont.

N

Naudain, Arnold; Del.
Neely, Matthew M., W. Va.
Nelson, Arthur E.; Minn.
Nelson, Gaylord; Wis.
Nelson, Knute; Minn.
Nesmith, James W.; Oreg.
Neuberger, Maurine B.; Oreg.
Neuberger, Richard L.; Oreg.
New, Harry S.; Ind.
Newberry, Truman H.; Mich.
Newlands, Francis G.; Nev.
Nicholas, Robert C.; La.
Nicholas, Wilson C.; Va.
Nicholson, Alfred O. P.; Tenn.
Nicholson, Samuel D.; Colo.
Niles, John M.; Conn.
Nixon, George S.; Nev.
Nixon, Richard M.; Calif.
Noble, James; Ind.
Norbeck, Peter; S. Dak.
Norris, George W.; Nebr.
Norris, Moses, Jr.; N.H.
North, William; N.Y.
Norton, Daniel S.; Minn.
Norvell, John; Mich.
Norwood, Thomas M.; Ga.
Nourse, Amos; Maine.
Nugent, John F.; Idaho.
Nunn, Sam; Ga.
Nye, Gerald P.; N. Dak.
Nye, James W.; Nev.

O

O'Conor, Herbert R.; Md.
O'Daniel, W. Lee; Tex.
Oddie, Tasker L.; Nev.
Ogden, Aaron; N.J.
Oglesby, Richard J.; Ill.
O'Gorman, James A.; N.Y.
Olcott, Simeon; N.H.
Oliver, George T.; Pa.
O'Mahoney, Joseph C.; Wyo.
Osborn, Thomas W.; Fla.
Otis, Harrison G.; Mass.
Overman, Lee S.; N.C.
Overton, John H.; La.
Owen, Robert L.; Okla.

P

Packwood, Robert W.; Oreg.
Paddock, Algernon S.; Nebr.
Page, Carroll S.; Vt.
Page, John; N.H.
Paine, Elijah; Vt.
Palmer, John M.; Ill.
Palmer, Thomas W.; Mich.
Palmer, William A.; Vt.
Parker, Nahum; N.H.
Parker, Richard E.; Va.
Parris, Albion K.; Maine.
Parrott, John F.; N.H.
Partridge, Frank C.; Vt.
Pasco, Samuel; Fla.
Pastore, John O.; R.I.
Paterson, William; N.J.
Patterson, David T.; Tenn.
Patterson, James W.; N.H.
Patterson, John J.; S.C.
Patterson, Roscoe C.; Mo.
Patterson, Thomas M.; Colo.
Patton, John, Jr., Mich.
Payne, Frederick G.; Maine.
Payne, Henry B.; Ohio.
Paynter, Thomas H.; Ky.
Peace, Roger C.; S.C.
Pearce, James A.; Md.
Pearson, James B.; Kans.
Pease, Henry R.; Miss.
Peffer, William A.; Kans.
Pell, Claiborne; R.I.
Pendleton, George H.; Ohio.
Pennybacker, Isaac S.; Va.
Penrose, Boies; Pa.
Pepper, Claude; Fla.
Pepper, George W.; Pa.
Percy, Charles H.; Ill.
Percy, Le Roy; Miss.
Perkins, Bishop W.; Kans.
Perkins, George C.; Calif.
Perky, Kirtland I.; Idaho.
Petigrew, Richard F.; S. Dak.
Pettit, John; Ind.
Pettus, Edmund W.; Ala.
Phelan, James D.; Calif.
Phelps, Samuel S.; Vt.
Phipps, Lawrence C.; Colo.
Pickens, Israel; Ala.
Pickering, Timothy; Mass.
Pierce, Franklin; N.H.
Pierce, Gilbert A.; N. Dak.
Pike, Austin F.; N.H.
Piles, Samuel H.; Wash.
Pinckney, Charles; S.C.
Pine, Wiliam B.; Okla.
Pinkney, William; Md.
Pittman, Key; Nev.
Platt, Orville H.; Conn.
Platt, Thomas C.; N.Y.
Pleasants, James; Va.
Plumb, Preston B.; Kans.
Plumer, William; N.H.
Poindexter, George; Miss.
Poindexter, Miles; Wash.
Poland, Luke P.; Vt.
Polk, Trusten; Mo.
Pollock, William P.; S.C.
Pomerene, Atlee; Ohio.
Pomeroy, Samuel C.; Kans.
Pool. John; N.C.
Pope, James P.; Idaho.
Pope, John; Ky.
Porter, Alexander; La.
Porter, Augustus S.; Mich.
Posey, Thomas; La.
Potter, Charles E.; Mich.
Potter, Samuel J.; R.I.
Potts, Richard; Md.
Powell, Lazarus W.; Ky.
Power, Thomas C.; Mont.
Pratt, Daniel D.; Ind.
Pratt, Thomas G.; Md.
Prentiss, Samuel; Vt.
Preston, William C.; S.C.
Pressler, Larry; S. Dak.
Price, Samuel; W. Va.
Prince, Oliver H.; Ga.
Pritchard, Jeter C.; N.C.
Proctor, Redfield; Vt.
Prouty, Winston L.; Vt.
Proxmire, William; Wis.
Pryor, David H.; Ark.
Pryor, Luke; Ala.
Pugh, George E.; Ohio.
Pugh, James L.; Ala.
Purcell, William E.; N. Dak.
Purtell, William A.; Conn.
Pyle, Miss Gladys; S. Dak.

Q

Quarles, Joseph V.; Wis.
Quay, Matthew S.; Pa.

R

Radcliffe, George L.; Md.
Ralston, Samuel M.; Ind.
Ramsey, Alexander; Minn.
Randolph, Jennings; W. Va.
Randolph, John; Va.
Randolph, Theodore F.; N.J.
Ransdell, Joseph E.; La.
Ransom, Matt W.; N.C.
Rantoul, Robert; Mass.
Rawlins, Joseph L.; Utah.
Rawson. Charles A.; Iowa.
Rayner, Isidor; Md.
Read, George; Del.
Read, Jacob; S.C.
Reagan, John H.; Tex.
Reames, Alfred E.; Oreg.
Reed, Clyde M.; Kans.
Reed, David A.; Pa.
Reed, James A.; Mo.
Reed, Philip; Md.
Reed, Thomas B.; Miss.
Reid. David S.; N.C.
Revels, Hiram R.; Miss.
Revercomb. Chapman; W. Va.
Reynolds, Robert R.; N.C.
Reynolds, Sam W.; Nebr.
Rhett, R. Barnwell; S.C.

Ribicoff, Abraham A.; Conn.
Rice, Benjamin F.; Ark.
Rice, Henry M.; Minn.
Richardson, Harry A.; Del.
Richardson, William A.; Ill.
Riddle, George Read; Del.
Riddleberger, Harrison H.; Va.
Ridgely, Henry M.; Del.
Riegle, Donald W., Jr.; Mich.
Rives, William C.; Va.
Roach, William N.; N. Dak.
Roane, William H.; Va.
Robbins, Asher; R.I.
Roberts, Jonathan; Pa.
Robertson, A. Willias; Va.
Robertson, Edward V.; Wyo.
Robertson, Thomas J.; S.C.
Robinson, Arthur R.; Ind.
Robinson, John M.; Ill.
Robinson, Jonathan; Vt.
Robinson, Joseph T.; Ark.
Robinson, Moses; Vt.
Robsion, John M.; Ky.
Rockwell, Julius; Mass.
Rodney, Caesar A.; Del.
Rodney, Daniel; Del.
Rollins, Edward H.; N.H.
Root, Elihu; N.Y.
Rosier, Joseph; W. Va.
Ross, Edmund G.; Kans.
Ross, James; Pa.
Ross, Jonathan; Vt.
Roth, William V.; Del.
Rowan, John; Ky.
Ruggles, Benjamin; Ohio.
Ruggles, John; Maine.
Rusk, Thomas J.; Tex.
Russell, Donald; S.C.
Russell, Richard B.; Ga.
Rutherfurd, John; N.J.

S

Sabin, Dwight M.; Minn.
Sackett, Fred M.; Ky.
Salinger, Pierre; Calif.
Saltonstall, Leverett; Mass.
Sanders, Newell; Tenn.
Sanders, Wilbur F.; Mont.
Sanford, Nathan; N.Y.
Sarbanes, Paul S.; Md.
Sargent, Aaron A.; Calif.
Sasser, James R.; Tenn.
Saulsbury, Eli; Del.
Saulsbury, Willard, Jr.; Del.
Saulsbury, Willard, Sr.; Del.
Saunders, Alvin; Nebr.
Sawyer, Frederick A.; S.C.
Sawyer, Philetus; Wis.
Saxbe, William B.; Ohio
Schall, Thomas D.; Minn.
Schmitt, Harrison H.; N. Mex.
Schoeppel, Andrew F.; Kans.
Schureman, James; N.J.
Schurz, Carl; Mo.
Schuyler, Karl C.; Colo.
Schuyler, Philip; N.Y.
Schwartz, H. H.; Wyo.
Schweiker, Richard S.; Pa.
Schwellenbach, Lewis B.; Wash.
Scott, Hugh; Pa.
Scott, John; Pa.
Scott, Nathan B.; W. Va.
Scott, W. Kerr; N.C.
Scott, William L.; Va.
Scrugham, James G.; Nev.
Seaton, Fred A.; Nebr.
Sebastian, William K.; Ark.
Sedgwick, Theodore; Mass.
Semple, James; Ill.
Sevier, Ambrose H.; Ark.
Seward, William H.; N.Y.
Sewell, William J.; N.J.
Seymour, Horatio; Vt.
Shafroth, John F.; Colo.
Sharon, William; Nev.
Sheafe, James; N.H.
Sheffield, William P.; R.I.
Shepley, Ether; Maine.
Sheppard, Morris; Tex.
Sherman, John; Ohio.
Sherman, Lawrence Y.; Ill.
Sherman, Roger; Conn.
Shields, James; Ill.; Minn.; Mo.
Shields, John K.; Tenn.
Shipstead, Henrik; Minn.
Shively, Benjamin F.; Ind.
Shortridge, Samuel M.; Calif.
Shott, Hugh Ike; W. Va.
Shoup, George Laird; Idaho.
Silsbee, Nathaniel; Mass.
Simmons, Furnifold M.; N.C.
Simmons, James F.; R.I.
Simon, Joseph; Oreg.
Simpson, Alan K.; Wyo.
Simpson, Milward L.; Wyo.
Slater, James H.; Oreg.
Slattery, James M.; Ill.
Slidell, John; La.
Smathers, George A.; Fla.
Smathers, William H.; N.J.
Smith, Benjamin A., II; Mass.
Smith, Daniel; Tenn.
Smith, Delazon; Oreg.
Smith, Ellison D.; S.C.
Smith, Frank L.; Ill.
Smith, H. Alexander; N.J.
Smith, Hoke; Ga.
Smith, Israel; Vt.
Smith, James, Jr.; N.J.
Smith, John; N.Y.
Smith, John; Ohio.
Smith, John W.; Md.
Smith, Marcus A.; Ariz.
Smith Margaret Chase; Maine.
Smith, Nathan; Conn.
Smith, Oliver H.; Ind.
Smith, Perry; Conn.
Smith, Ralph Tyler; Ill.
Smith, Samuel; Md.
Smith, Truman; Conn.
Smith, William; S.C.
Smith, William A.; Mich.
Smith, Willis; N.C.
Smoot, Reed; Utah.
Soulé, Pierre; La.
Southard, Samuel L.; N.J.
Sparkman, John; Ala.
Speight, Jesse; Miss.
Spence, John S.; Md.
Spencer, George E.; Ala.
Spencer, Lloyd; Ark.
Spencer, Selden P.; Mo.
Spong, William B., Jr.; Va.
Spooner, John C.; Wis.
Sprague, Peleg; Maine.
Sprague, William; R.I.
Sprague, William; R.I.[1]
Spruance, Presley; Del.
Squire, Watson C.; Wash.
Stafford, Robert T.; Vt.
Stanfield, Robert N.; Oreg.
Stanfill, William A.; Ky.
Stanford, Leland; Calif.
Stanley, A. Owsley; Ky.
Stanton, Joseph, Jr.; R.I.
Stark, Benjamin; Oreg.
Stearns, Ozora P.; Minn.
Steck, Daniel F.; Iowa.
Steiwer, Frederick; Oreg.
Stennis, John C.; Miss.
Stephens, Hubert D.; Miss.
Stephenson, Isaac; Wis.
Sterling, Thomas; S. Dak.
Stevens, Ted; Alaska.
Stevenson, Adlai E., III; Ill.
Stevenson, John W.; Ky.
Stewart, David; Md.
Stewart, David W.; Iowa.
Stewart, Donald W.; Ala.
Stewart, John W.; Vt.
Stewart, Tom; Tenn.
Stewart, William M.; Nev.
Stockbridge, Francis B.; Mich.
Stockton, John P.; N.J.
Stockton, Richard; N.J.
Stockton, Robert F.; N.J.
Stokes, Montfort; N.C.
Stone, David; N.C.
Stone, Richard (Dick); Fla.
Stone, William J.; Mo.
Storer, Clement; N.H.
Storke, Thomas M.; Calif.
Strange, Robert; N.C.
Strong, Caleb; Mass.
Stuart, Charles E.; Mich.
Sturgeon, Daniel; Pa.
Sullivan, Patrick J.; Wyo.
Sullivan, William V.; Miss.
Sumner, Charles; Mass.
Sumter, Thomas; S.C.
Sutherland, George; Utah.
Sutherland, Howard; W. Va.
Swanson, Claude A., Va.
Swift, Benjamin; Vt.
Swift, George R.; Ala.
Symington, Stuart; Mo.

T

Tabor, Horace A. W.; Colo.
Taft, Kingsley A.; Ohio.
Taft, Robert A.; Ohio.
Taft, Robert, Jr.; Ohio.
Taggart, Thomas; Ind.
Tait, Charles; Ga.
Talbot, Isham; Ky.
Taliaferro, James P.; Fla.
Tallmadge, Nathaniel P.; N.Y.
Talmadge, Herman E.; Ga.
Tappan, Benjamin; Ohio.
Tatna I, Josiah; Ga.
Taylor, Glen H.; Idaho.
Taylor, John; S.C.
Taylor, John; Va.
Taylor, Robert L.; Tenn.
Taylor, Waller; Ind.
Tazewell, Henry; Va.
Tazewell, Littleton W.; Va.
Teller, Henry M.; Colo.
Ten Eyck, John C.; N.J.
Terrell, Joseph M.; Ga.
Thayer, John M.; Nebr.
Thomas, Charles S.; Colo.
Thomas, Elbert D.; Utah.
Thomas, Elmer; Okla.
Thomas, Jesse B.; Ill.
Thomas, John; Idaho.
Thompson, Fountain L.; N. Dak.
Thompson, John B.; Ky.
Thompson, Thomas W.; N.H.
Thompson, William H.; Kans.
Thompson, William H.; Nebr.
Thompson, John R.; N.J.
Thornton, John R.; La.
Thurston, Buckner; Ky.
Thurman, Allen G.; Ohio.
Thurmond, Strom; S.C.
Thurston, John M.; Nebr.
Thye, Edward J.; Minn.
Tichenor, Isaac; Vt.
Tiffin, Edward; Ohio.
Tillman, Benjamin R.; S.C.
Tipton, John; Ind.
Tipton, Thomas W.; Nebr.
Tobey, Charles W.; N.H.
Tomlinson, Gideon; Conn.
Toombs, Robert; Ga.
Toucey, Isaac; Conn.
Tower, John G.; Tex.
Towne, Charles A.; Minn.
Townsend, Charles E.; Mich.
Townsend, John G., Jr.; Del.
Tracy, Uriah; Conn.
Trammell, Park; Fla.
Trimble, William A.; Ohio
Trotter, James F.; Miss.
Troup, George M.; Ga.
Truman, Harry S.; Mo.
Trumbull, Jonathan, Conn.
Trumbull, Lyman; Ill.
Tsongas, Paul; Mass.
Tunnell, James M.; Del.
Tunney, John V.; Calif.
Turley, Thomas B.; Tenn.
Turner, George; Wash.
Turner, James; N.C.
Turney, Hopkins L.; Tenn.
Turpie, David; Ind.
Tydings, Joseph D.; Md.
Tydings, Millard E.; Md.
Tyler, John; Va.
Tyson, Lawrence D.; Tenn.

[1] Nephew of the preceding.

U.

Umstead, William B.; N.C.
Underwood, Joseph R.; Ky.
Underwood, Oscar W.; Ala.
Underwood, Thomas R.; Ky.
Upham, William; Vt.
Upton, Robert W.; N.H.

V

Van Buren, Martin; N.Y.
Vance, Zebulon B.; N.C.
Vandenberg, Arthur H.; Mich.
Van Dyke, Nicholas; Del.
Van Nuys, Frederick; Ind.
Van Winkle, Peter G.; W. Va.
Van Wyck, Charles H.; Nebr.
Vardaman, James K.; Miss.
Vare, William S.; Pa.[1]
Varnum, Joseph B.; Mass.
Venable, Abraham B.; Va.
Vest, George G.; Mo.
Vickers, George; Md.
Vilas, William F.; Wis.
Vining, John ; Del.
Voorhees, Daniel W.; Ind.

W

Wade, Benjamin F.; Ohio.
Wadleigh, Bainbridge; N.H.
Wadsworth, James W., Jr., N.Y.
Waggaman, George A.; La.
Wagner, Robert F.; N.Y.
Walcott, Frederic C.; Conn.
Wales, John; Del.
Walker, Freeman; Ga.
Walker, George; Ky.
Walker, Isaac P.; Wis.
Walker, James D.; Ark.
Walker, John; Va.
Walker, John W.; Ala.
Walker, Robert J.; Miss.
Walker, Walter; Colo.
Wall, Garret D.; N.J.
Wall, James W.; N.J.
Wallace, William A.; Pa.
Wallgren, Mon C.; Wash.
Wallop, Malcolm; Wyo.
Walsh, Arthur; N.J.
Walsh, David I.; Mass.
Walsh, Patrick; Ga.
Walsh, Thomas J.; Mont.
Walters, Herbert S.; Tenn.
Walthall, Edward C.; Miss.
Walton, George; Ga.
Ward, Matthias; Tex.
Ware, Nicholas; Ga.
Warner, John W.; Va.
Warner, Willard, Ala.
Warner, William; Mo.
Warren, Francis E.; Wyo.
Washburn, William B.; Mass.
Washburn, William D.; Minn.
Waterman, Charles W.; Colo.
Watkins, Arthur V.; Utah.
Watson, Clarence W., W. Va.
Watson, James; N.Y.
Watson, James E.; Ind.
Watson, Thomas E.; Ga.
Webb, William R.; Tenn.
Webster, Daniel; Mass.
Weeks, John W.; Mass.
Weeks, Sinclair; Mass.
Weicker, Lowell P., Jr.; Conn.
Welch, Adonijah S.; Fla.
Welker, Herman; Idaho.
Weller, John B.; Calif.
Weller, Ovington E.; Md.
Wellington, George L.; Md.
Wells, John S.; N.H.
Wells, William H.; Del.
West, J. Rodman; La.
West, William S.; Ga.
Westcott, James D., Jr.; Fla.
Wetmore, George P.; R.I.
Wharton, Jesse; Tenn.
Wheeler, Burton K.; Mont.
Wherry, Kenneth S.; Nebr.
Whitcomb, James; Ind.
White, Albert S.; Ind.

[1] Elected, but was not seated.

White, Edward D.; La.
White, Francis S.; Ala.
White, Hugh L.; Tenn.
White, Samuel; Del.
White, Stephen M.; Calif.
White, Wallace H., Jr.; Maine.
Whiteside, Jenkin; Tenn.
Whitthorne, Washington C.; Tenn.
Whyte, William P.; Md.
Wigfall, Louis T.; Tex.
Wilcox, Leonard; N.H.
Wiley, Alexander; Wis.
Wilfley, Xenophon P.; Mo.
Wilkins, William; Pa.
Wilkinson, Morton S.; Minn.
Willey, Calvin; Conn.
Willey, Waitman T.; Va., W. Va.
Williams, Abram P.; Calif.
Williams, George H.; Mo.
Williams, George H.; Oreg.
Williams, Harrison A., Jr.; N.J.
Williams, Jared W.; N.H.
Williams, John; Tenn.
Williams, John J.; Del.
Williams, John S.; Ky.
Williams, John S.; Miss.
Williams, Reuel; Maine.
Williams, Thomas Hickman; Miss.
Williams, Thomas Hill; Miss.
Williamson, Ben M.; Ky.
Willis, Frank B.; Ohio.
Willis, Raymond E.; Ind.
Wilmot, David; Pa.
Wilson, Ephraim K.; Md.
Wilson, George A.; Iowa.
Wilson, Henry; Mass.
Wilson, James F.; Iowa.
Wilson, James J.; N.J.
Wilson, John L.; Wash.
Wilson, Robert; Mo.
Windom, William; Minn.
Wingate, Paine; N.H.
Winthrop, Robert C.; Mass.
Withers, Garrett L.; Ky.
Withers, Robert E.; Va.
Wofford, Thomas A.; S.C.
Wolcott, Edward O.; Colo.
Wolcott, Josiah O.; Del.
Woodbridge, William; Mich.
Woodbury, Levi; N.H.
Works, John D.; Calif.
Worthington, Thomas; Ohio.
Wright, George G.; Iowa.
Wright, Joseph A.; Ind.
Wright, Robert; Md.
Wright, Silas, Jr.; N.Y.
Wright, William; N.J.
Wyman, Louis C.; N.H.

Y

Yarborough, Ralph; Tex.
Yates, Richard; Ill.
Young, Lafayette; Iowa.
Young, Milton R.; N. Dak.
Young, Richard M.; Ill.
Young, Stephen M.; Ohio.
Yulee, David L.; Fla.

Z

Zorinsky, Edward; Nebr.

Mr. ROBERT C. BYRD. Mr. President I call attention to the fact that Mr. ZORINSKY is the only Senator who has served whose name begins with a Z.

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

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

BICENTENNIAL CELEBRATION OF MILFORD, MASS.

Mr. TSONGAS. Mr. President, it is my pleasure to extend congratulations and best wishes to the citizens of Milford, Mass., on the occasion of the town's 200th anniversary. Founded in 1780 on principles of independence and self-determination, Milford has long represented the pride and individualism exemplified by this year's enthusiastic bicentennial celebration. The commitment which this community has displayed in paying tribute to its rich heritage should inspire all of us.

It was with well deserved pride that the citizens of Milford gathered on the steps of Memorial Hall, on the 11th of April, 1980, to renew the 200-year-old pledge of freedom and dedication expressed by the town's original Charter of Incorporation. Yet this ceremony marked but one highpoint in Milford's celebration. Their bicentennial functions have included a wide spectrum of cultural, educational, and historical events —from a bicentennial road race, to a full-scale reenactment of a Revolutionary War battle, to the daily reading of bicentennial minutes in the Milford Elementary School. Each citizen has been given a chance to participate in this important effort to integrate past lessons and ideals into the present.

Mr. President, I know that my colleagues join me in congratulating the citizens of Milford, Mass., and in offering best wishes for the continuing success of their bicentennial celebration and for prosperity in the coming 200 years.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders numbered 754, 758, and 819.

Mr. BAKER. Mr. President, reserving the right to object, and I will not, the reservation is for the purpose of advising the majority leader that those three items are cleared on our calendar and we have no objection to their consideration and passage.

Mr. ROBERT C. BYRD. I thank the minority leader.

SMALL BUSINESS ADMINISTRATION SOLAR ENERGY LOAN AUTHORIZATION

The Senate proceeded to consider the bill (S. 2224) to amend the Small Business Act to increase the solar energy and energy conservation loan program authorizations, and for other purposes, which had been reported from the Select Committee on Small Business with an amendment to strike all after the enacting clause and insert the following:

That (a) section 7(1) of the Small Business Act is amended by adding at the end thereof the following new paragraph:

"(10) In evaluating applications submitted for assistance under this subsection the Administration shall, to the maximum extent practicable, consult with regional solar energy centers of the Department of Energy.".

(b) Section 20 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(h) The following program level is authorized for fiscal year 1981: For the programs authorized by section 7(1) of this Act, the Administration is authorized to make $45,000,000 in direct and immediate participation loans and $33,000,000 in guaranteed loans.".

● Mr. NELSON. Mr. President, this bill would provide fiscal year 1981 authorizations for the Solar Energy Loan Act, first passed by Congress in 1978. The act provides authority for the Small Business Administration to make loans and loan guarantees to small businesses in the renewable energy field. The act directs the SBA to use "softer" criteria in evaluating loans, in order to account for the higher risk businesses in this area must undertake.

Prior to the act's implementation, and despite a large number of applications, SBA had never made a loan for renewable energy purposes.

Initially, the program was authorized at the level of $30 million in direct funds and $45 million in guarantee authority. In its first year of implementation only $1 million in direct funds and $5 million in guarantee authority were appropriated; for fiscal year 1980, $15 million in direct and $35 million in guaranteed were appropriated. Over the 2-year period, SBA has made approximately 125 loans, almost all of them with direct funds. In fact, less than $5 million worth of guarantee authority has been used. For the coming fiscal year, however, the administration has proposed to totally eliminate the direct loan aspect of the program.

This bill would provide a new authorization level to replace that of the original act; namely, $33 million in direct loan authority and $45 million in guarantee authority.

These are very modest figures. For this year, SBA ran out of direct money for the first quarter on January 7, and now reports that it is out of money for the rest of the year. There is plenty of guarantee authority available, although SBA and the solar small business people report since banks view renewable energy as much too risky, they are not generally willing to make even guaranteed loans.

Consequently, it is the direct loan money that really is needed. Although SBA cannot give loss ratios at this early stage of the program, they report that the repayment record of the program has been outstanding. In their fiscal year 1981 request to OMB, in fact, they asked for $50 million in direct loan authority.

All of these financial data, however, do not get to the heart of the need for this bill—the tremendous success the program has had. SBA agrees, in fact, that the program is a success, and has even praised its success in a newsletter they send to small businesspeople. The Department of Energy, in testimony before the Small Business Committee, also agreed with the need for the program, and stated very clearly that they had no program designed to help small renewable energy companies obtain financing.

What the SBA program does—and does uniquely in the Federal Government—is to provide capital for small companies in the renewable energy field, most of whom are at the stage where they have developed a product and are ready to market it. Without the financing, the product would either not be produced or be sold to a large company.

Among the beneficiaries of the SBA loan program have been:

A California small businessman who has built the largest solar installation in the world—a 240-unit apartment complex with solar hot water and space heating. The initial cost of the project was exactly the same as what the cost of a conventional system would have been; and

A New England firm that has placed photovoltaic arrays on a 36-home development in Massachusetts. The arrays provide all the electricity, space heating, and water heating for the homes, and are the first all-solar homes in the area, The project has no other financial assistance from the Government—it was entirely private, except for the SBA loan to the solar firm to help market its product.

Examples go on and on. The point is that for a tiny investment a great deal has been accomplished. If this program is allowed to languish, these small firms will have no place to go. Compared to the $300 million that DOE gave to large firms for solar development last year, this $33 million loan program is only a drop in a very large bucket. I urge its passage today.●

● Mr. WEICKER. Mr. President, if solar energy is going to develop into a viable alternative energy source, small business must play a major role in developing the necessary technologies and processes. The unique feature of most solar devices is their ability to transform sunlight into heat and electricity on or near the site where they are needed. Small businesses, which are more adapted to local needs, can most efficiently develop the technologies suitable for on-site use.

More importantly, small businesses account for 50 percent of all major innovations in this country, and do so at a fraction of the cost of larger businesses. This is especially true in the solar energy field. Small business has a proven track record in solar development. Unfortunately, small solar firms find it difficult to obtain private sector financing. Banks and other financial institutions consider the solar field too risky to justify lending to a small firm. In addition, the Department of Energy has not taken advantage of the innovative capabilities of small firms, opting instead for the development of large scale solar systems by giant corporations.

In an effort to address this problem, Congress created the 7(1) energy loan program within the SBA in 1977. Specifically, SBA would provide small businesses in the solar energy field with financial assistance, emphasizing the commercialization of solar technologies and products which otherwise would have never found the marketplace. This program has experienced tremendous demand which has far outstripped available funding. For this fiscal year $15 million was appropriated for the 7(1) program. By the end of the second quarter, the entire $15 million had been committed.

S. 2224 seeks to address this funding problem by establishing a $45 million authorization for the 7(1) program in fiscal year 1981. I commend Senator HAYAKAWA for his leadership in bringing this issue to the attention of the Small Business Committee and the Senate. If we are to achieve energy independence we must provide our smaller firms with the tools necessary to develop new energy technologies and processes. S. 2224 will provide tremendous assistance in this regard.

Mr. President, I urge my colleagues to support this important legislation.●

● Mr. HAYAKAWA. Mr. President, it was not so long ago that President Carter pledged his strong support for solar energy. In June of 1979, he told us that as a nation we would derive 20 percent of our energy needs from solar energy and other renewable resources. He said this goal would "set a high standard against which we can collectively measure our progress in reducing our dependence on oil imports and securing our country's energy future." He called this an "ambitious" goal—the attainment of which would require an all-out effort by State and local governments, energy users, industry and, yes, the Federal Government would help out, too. Mr. Carter called on the Federal Government to provide the leadership for this great effort, and then he called on industry and consumers to follow. Yet, the leadership role of the Federal Government must amount to more than merely setting the goal. The setting of national goals is all too often an indulgence into political rhetoric. Anyone can set a goal; a true leader is one who can lay the groundwork needed to attain that goal.

The Federal Government can assume a role of true leadership by implementing policies designed to overcome the obstacles that now inhibit the commercialization of renewable resource technology. Two major obstacles must be overcome. They are the problems of consumer financing and industry financing. During the past months, my colleagues in the Senate have worked very hard to introduce incentives designed to stimulate the alternative energy market, and to this effort I offer my most sincere praise. The creation of a solar bank and the extension of tax credits to home and business owners who take advantage of renewable forms of energy are two important steps toward the commercialization of new technologies. However, to meet the demand created by new consumer financing programs, industry must be able to expand its abilities to manufacture, promote, and install renewable energy systems.

Mr. President, I have introduced S. 2224 as an important step toward facilitating industry financing by increasing the authorization of the Small Business Administration's 7(1) energy loan program. This program gives the Federal Government the means to assist small innovative businesses in their efforts to

accomplish the mammoth task of designing, manufacturing, promoting, and installing the hardware required to achieve the President's formidable goal. Created in 1978, the 7(1) program gives new companies in the renewable energy industry access to important seed capital. Yet, the forces which in the past have constrained the availability of capital for the small entrepreneur—inflation, high interest rates, and inability to meet strict collateral requirements—have grown more severe and have worked to place conventional means of financing even further out of reach. Because the SBA's 7(1) program recognizes that a proven track record is an impossibility for a fledgling industry, it has proven, in many cases, to be the only source of capital for industry financing and expansion. However, the level of funding for the present program is simply inadequate.

S. 2224 will give the Small Business Administration the authority to fund an energy loan program that can meet the needs of an important new industry. It will put the Federal Government in a position to spark the supply side of this equation, in the same way that it has sparked the demand side through consumer financing. Without this assistance, many small businesses which are, or soon will be, the pioneers of the renewable energy industry will fail or will never be started. If this happens, we will find ourselves in a truly desperate situation.

It is not political rhetoric that will free us from the economic quicksand of imported oil, and satisfaction with the status quo will only fix us on a collision course with economic chaos. The status quo must change, and the transition to renewable sources of energy must be expedited. In some parts of the country, this transition is already taking place.

This legislation will insure the expansion of this progress throughout the entire Nation.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–702), explaining the purposes of the measure.

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

SUMMARY OF LEGISLATION

The committee amendment to S. 2224 in the nature of a substitute is divided into two parts. Part (a) amends section 7(1) of the Small Business Act by adding at the end thereof a new paragraph.

This new paragraph requires the SBA, to the maximum extent practicable, to consult with regional solar energy centers of the Department of Energy, in evaluating applications for assistance under the 7(1) program.

Part (b) amends section 20 of the Small Business Act to provide authorization levels for the 7(1) program in fiscal year 1981. There is currently no specific authorization for the 7(1) program. The Committee amendment establishes an authorization level of $45 million in direct and immediate participation loans and $33 million in guarantees.

The fiscal year 1980 Appropriations Act for the Small Business Administration (P.L. 96–68, approved September 24, 1979) provides $15 million for direct and immediate participation loans and $30 million for guarantees under the 7(1) program.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

ATLANTIC TUNAS CONVENTION AUTHORIZATION

The bill (S. 2549) to authorize appropriations for fiscal years 1981, 1982, and 1983 to carry out the Atlantic Tunas Convention Act of 1975, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h), is amended by striking out "and 1980" and inserting in lieu thereof "1980, 1981, 1982, and 1983.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–708), explaining the purposes of the measure.

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

S. 2549 would extend appropriation authority in the legislation implementing the International Convention for the Conservation of Atlantic Tunas. The International Commission for the Conservation of Atlantic Tunas (ICCAT) was established under the authority of the Convention, and has responsibility for obtaining and collating the information necessary for maintaining stocks of tuna and tuna-like fisheries throughout the Atlantic Ocean. The Commission concerns itself with: (1) Joint planning of research, coordination of research carried on by agencies of the parties in accordance with its plans, and joint evaluation of the results of such research; (2) the collection and analysis of statistical information relating to the condition of fishery resources in the Convention area; and (3) joint formulation of regulatory proposals for submission to the parties.

DISAPPROVAL OF CERTAIN EDUCATIONAL REGULATIONS

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 91) to disapprove the regulations of the Department of Health, Education, and Welfare relating to grants to State educational agencies for educational improvement, resources, and support, was considered and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the final regulations submitted to the Congress in 1980 pertaining to grants to State educational agencies for educational improvement, resources, and support authorized under title IV of the Elementary and Secondary Education Act of 1965, are disapproved by the Congress pursuant to the provisions of section 431(d) of the General Education Provisions Act on the grounds that the regulations are inconsistent with the laws and are returned to the Commissioner of Education to be modified or otherwise disposed of as provided in section 431(e) of the General Education Provisions Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

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

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–769), explaining the purposes of the measure.

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

Section 431(d) of the General Education Provisions Act authorizes the Congress to disapprove regulations issued by the Office of Education which are inconsistent with the law. The Committee finds that the regulations issued by the Commissioner of Education pursuant to statutory authority contained in title IV of the Elementary and Secondary Education Act of 1965 are not consistent with the law, and are a clear violation of Congressional intent. The Committee therefore proposes that the Congress disapprove the regulation and return it to the Secretary of Education, the successor chief education official to the Commissioner of Education, since the creation of the Department of Education on May 7, for an amendment to comply with the law.

SALE OF OBSOLETE VESSELS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4088.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 4088) entitled "An Act to authorize the Secretary of Commerce to sell two obsolete vessels to Coast Line Company and for other purposes", with the following amendments:

On page 1, line 2, strike out "notwithstanding", and insert: (a) Notwithstanding

On page 2, after line 6, insert:

(b) That the Act entitled "An Act to authorize the employment of certain foreign citizens on the vessel Seafreeze Atlantic, Official Number 517242", approved December 15, 1975 (Public Law 94–150, Stat. 307), is amended—

(1) by striking out "Seafreeze Atlantic, Official Number 517242 (hereafter referred to in this Act as the 'Seafreeze Atlantic')," in the first section and inserting in lieu thereof "Arctic Trawler, formerly the Seafreeze Atlantic, Official Number 517242 (hereafter referred to in this Act as the 'Arctic Trawler'),";

(2) by striking out "Seafreeze Atlantic" each place it appears in sections 2, 3, and 4 and inserting in lieu thereof "Arctic Trawler"; and

(3) by striking out "four-year period" each place it appears in sections 2 and 3 and inserting in lieu thereof "six-year period".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

DISAPPROVAL OF CERTAIN EDUCATION REGULATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on House Concurrent Resolution 332.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 332) disapproving certain regulations submitted to the Congress on April 24, 1980, with respect to the law-related education program authorized under sections 346, 347, and 348 of the Elementary and Secondary Education Act of 1965.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 332) was agreed to.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

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

The motion to lay on the table was agreed to.

REMOVAL OF INJUNCTIONS OF SECRECY

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the International Convention on Maritime Search and Rescue, 1979, with Annex (Executive J, 96th Congress, second session), and Amendments to the Inter-governmental Maritime Consultative Organization Convention (Executive K, 96th Congress, second session), both transmitted to the Senate today by the President of the United States, and ask that they be considered as having been read the first time, that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed, and that the President's messages be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the International Convention on Maritime Search and Rescue, 1979, with Annex, signed on behalf of the United States on November 6, 1979. For the information of the Senate, I transmit also the report of the Department of State with respect to the Convention and a copy of the Final Act of the International Conference on Maritime Search and Rescue, 1979, adopting the Convention.

The Convention provides for the first comprehensive approach to international search and rescue service for world shipping, by establishing a plan to coordinate international facilities for the rescue of persons in distress at sea. It does for the maritime services what the search and rescue provisions of Annex 12 to the Convention on International Civil Aviation do for the aviation services. The Convention will serve to promote cooperation among organizations around the world participating in search and rescue operations at sea.

For these reasons, I urge the Senate to give this Convention prompt consideration, and its advice and consent to ratification.

JIMMY CARTER.

THE WHITE HOUSE, *May 20, 1980.*

To the Senate of the United States:

I transmit herewith, for the advise and consent of the Senate to acceptance, amendments to the Convention on the Intergovernmental Maritime Consultative Organization signed at Geneva March 6, 1948 (the IMCO Convention). The amendments were adopted on November 15, 1979, by the Assembly of the Intergovernmental Maritime Consultative Organization (IMCO) at its eleventh session.

These amendments are part of a series of amendments, negotiated with a view to bringing the Convention up-to-date given changes of membership and structure that have occurred since its entry into force in 1958. Other amendments in this series were transmitted to the Senate for advice and consent to acceptance on May 3, 1979.

Membership in IMCO has grown from 21 member States in 1958 to 113 member States in 1979. This expansion of membership gave rise to concern that the IMCO Council did not give adequate representation to member States within its existing structure. Three of the four amendments transmitted today address this problem; they increase the number of members on the Council, and the number of Council members required to constitute a quorum at Council meetings; and they provide for the distribution of Council membership among member States with interests in international shipping, international seaborne trade, and other special interests in maritime transport or navigation. These amendments will insure adequate representation on the Council of the newly expanded membership.

The fourth amendment provides for a member State to give notification of its withdrawal from IMCO should an amendment to which it is strongly opposed be accepted by two-thirds of the member States. Presently such acceptance triggers the automatic entry into force of an amendment for *all* member States. Under the proposed amendment, a member State would have the option of withdrawing from IMCO rather than subjecting itself to an amendment with which it did not agree.

Support for these amendments, as well as for those transmitted on May 3, 1979, will contribute to the interest of the United States in facilitating cooperation among maritime nations. To that end, I urge the Senate to give early and favorable consideration to the amendments and give its advice and consent to their acceptance.

JIMMY CARTER.

THE WHITE HOUSE, *May 20, 1980.*

ORDER FOR RECOGNITION OF SENATOR SIMPSON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, Mr. SIMPSON be recognized for not to exceed 15 minutes.

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

ORDER FOR RECESS UNTIL 11:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Presiding Officer, at no later than 5:30 p.m., recess the Senate over until 11:30 tomorrow morning.

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

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

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

TO REMEMBER GENOCIDE

Mr. PROXMIRE. Mr. President, on May 16 and May 19, the Washington Post printed two short stories by John Burgess on Cambodia. Both stories center on Cambodia's suffering under Pol Pot.

In Cambodia, some scars have begun to heal; others never will.

Burgess writes of Phnom Penh's gradual and continuing emergence from its dark, deserted years. People have returned, shops are opening. But the city is merely a ghost of its former self.

That ghost speaks. Rusted cars clutter the streets. Ruined roads speak of the brutal policies that forced all to flee the city.

The ruthless Khmer Rouge policies underlie all recovery. The city and the people remember.

So does the countryside. Burgess tells of his unscheduled visit to a small village. He asked the villagers about executions under the Khmer Rouge. He was shown a tiny instance of the massive campaign of murder: a grave of 48 bodies, the skulls and ribs lay bleaching in the tropical sun.

But bones are not bodies. They cannot convey the full horror of genocide. The survivors can. The people remember.

Burgess comments that—

Educating foreigners about the crimes endured during the four-year Khmer Rouge rule has become a national obsession.

The people can testify best to the atrocities of Pol Pot. They see a duty to enlighten the world; to make sure the world remembers.

They remind us of a moral obligation we have to the world. We have a duty to censure these mass killings in Cambodia; we have a duty to prevent genocide.

Editorials and reporting serve a purpose in educating the world to crimes being committed.

They have another purpose. They illustrate that genocide can and does occur today. They must goad us into action to prevent genocide.

The Senate can act to prevent genocide by ratifying the Genocide Convention. The Convention has lain before us for over 30 years. Nothing stands in the way of ratification. We have so much to gain by condemning this horrible, heinous crime.

I call on my colleagues to ratify the Genocide Convention.

RECESS TO 11:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 11:30 tomorrow morning.

At 5:21 p.m., the Senate recessed until Wednesday, May 21, 1980, at 11:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 20, 1980:

U.S. METRIC BOARD

The following-named persons to be Members of the U.S. Metric Board for terms expiring March 23, 1986.

Marcus B. Crotts, of North Carolina, vice Henry Kroeze, term expired.

Francis R. Dugan, of Ohio (reappointment).

U.S. POSTAL SERVICE

Timothy L. Jenkins, of the District of Columbia, to be a Governor of the U.S. Postal Service for the remainder of the term expiring December 8, 1982, vice Robert Earl Holding, resigned.

Paula D. Hughes, of New York, to be a Governor of the U.S. Postal Service for the term expiring December 8, 1987, vice Charles H. Codding, term expired.

David E. Babcock, of Arizona, to be a Governor of the U.S. Postal Service for the term expiring December 8, 1988, vice Hayes Robertson, term expired.

HOUSE OF REPRESENTATIVES—*Tuesday, May 20, 1980*

The House met at 11 a.m. and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
May 19, 1980.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Tuesday, May 20, 1980.

THOMAS P. O'NEILL, JR.,
Speaker of the House of Representatives.

PRAYER

The Reverend Harry C. Barrett, associate director, department of health and hospitals, Archdiocese of New York, offered the following prayer:

Let us pray:

We ask Your blessings Lord, on all who guide us in this Congress by their authority and power. We thank You for their vitality and spirit which has helped this country to flourish. May they always perform their duties with perseverance, knowledge, insight, and courage.

May we further develop and enrich our resources by practicing those virtues which have made us strong and inspire those who deliberate and legislate to fulfill the mandate entrusted to them.

May we continue as a nation to have an open heart to all in need to take them into the safety of our land and in doing so, set an example for all nations to follow.

We pray especially for the liberty and freedom of all people and at this moment in history we pray in a special way for the people of Cuba.

Grant that when we come to the end of our earthly life, God will turn to us and say "Well done, my good and faithful servant." Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries, who also informed the House that on the following dates the President approved and signed a bill and a joint resolution of the House of the following titles:

On May 16, 1980:

H.J. Res. 545. Joint resolution making an urgent appropriation for the food stamp program for the fiscal year ending September 30, 1980, for the Department of Agriculture.

On May 19, 1980:

H.R. 126. An act to permit the Secretary of the Interior to accept privately donated funds and to expend such funds on property on the National Register of Historic Places.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 15, the Chair declares the House in recess subject to the call of the Chair, to receive the former Members of Congress.

Accordingly (at 11 o'clock and 5 minutes a.m.), the House stood in recess subject to the call of the Chair.

RECEPTION OF FORMER MEMBERS OF CONGRESS

The SPEAKER pro tempore (Mr. WRIGHT) presided.

The SPEAKER pro tempore. On behalf of the Speaker of the House of Representatives and many Members in the Chamber, I consider it a high honor and a distinct personal privilege to have the opportunity of welcoming so many of our former Members and colleagues as may be present here for this occasion. We all pause to welcome them and renew the bonds of friendship that join us. This is a bipartisan affair. In that spirit, the Chair is going to recognize the floor leaders of both parties.

The Chair directs the Clerk to call the roll of former Members of Congress.

The Clerk called the roll of former Members of Congress, and the following Members answered to their names:

Hugh Q. Alexander, North Carolina.
Leslie C. Arends, Illinois.
O. K. Armstrong, Missouri.
Robert T. Ashmore, South Carolina.
William H. Ayres, Ohio.
Robert R. Barry, New York.
Laurie C. Battle, Alabama.
Andrew J. Biemiller, Wisconsin.
John A. Blatnik, Minnesota.
Daniel B. Brewster, Maryland.
Charles B. Brownson, Indiana.
J. Herbert Burke, Florida.
Maurice G. Burnside, West Virginia.
Charles E. Chamberlain, Michigan.
Albert M. Cole, Kansas.
W. Sterling Cole, New York.
Jorge L. Cordova, Puerto Rico.
Willard S. Curtin, Pennsylvania.
Isidore Dollinger, New York.
William Jennings Bryan Dorn, South Carolina.
Paul A. Fino, New York.
Charles K. Fletcher, California.
Newell A. George, Kansas.
Robert A. Grant, Indiana.
Porter Hardy, Jr., Virginia.
Harry G. Haskell, Delaware.
Brooks Hays, Arkansas.
Don Hayworth, Michigan.
Patrick J. Hillings, California.
Chet Holifield, California.
Craig Hosmer, California.
Roman L. Hruska, Nebraska.
August E. Johansen, Michigan.
Jed Johnson, Jr., Oklahoma.
Walter H. Judd, Minnesota.
James Kee, West Virginia.
Hastings Keith, Massachusetts.
Edna Flannery Kelly, New York.
Horace R. Kornegay, North Carolina.
Melvin R. Laird, Wisconsin.
John Davis Lodge, Connecticut.
Donald F. McGinley, Nebraska.
William S. Mailliard, California.
James R. Mann, South Carolina.
George Meader, Michigan.
D. Bailey Merrill, Indiana.
John S. Monagan, Connecticut.
Thomas E. Morgan, Pennsylvania.
Abraham J. Multer, New York.
F. Jay Nimtz, Indiana.
Alexander Pirnie, New York.
James M. Quigley, Pennsylvania.
Howard W. Robison, New York.
John M. Robsion, Jr., Kentucky.
Byron G. Rogers, Colorado.
Walter Rogers, Texas.
Robert Tripp Ross, New York.
J. Edward Roush, Indiana.
Harold M. Ryan, Michigan.
Fred Schwengel, Iowa.
William L. Scott, Pennsylvania.
John E. Sheridan, Pennsylvania.
Carlton R. Sickles, Maryland.
Alfred D. Sieminski, New Jersey.
Frank E. Smith, Mississippi.
Henry P. Smith III, New York.
William L. Springer, Illinois.
Neil Staebler, Michigan.
Roy A. Taylor, North Carolina.
James E. Van Zandt, Pennsylvania.
Ralph W. Yarborough, Texas.
Charles Whalen, Ohio.

□ 1110

The SPEAKER pro tempore. The Chair announces that 72 former Members of Congress have responded to their names.

The Chair recognizes at this time the majority whip of the House of Representatives, the Honorable JOHN BRADEMAS of Indiana.

Mr. BRADEMAS. Mr. Speaker, on behalf of the distinguished Speaker of the House of Representatives, Mr. O'NEILL; the distinguished majority leader, Mr. WRIGHT of Texas, who now occupies the chair; as well as other Members of the majority leadership of the House, indeed, on behalf of all Members on the majority side of the aisle, I want very warmly to extend a welcome to all our former colleagues in the House of Representatives and Senate.

If I may say a special word, Mr. Speaker, about the House of Representatives.

I was just ruminating on the fact, that it is possible to become a Member of the other body through appointment. It is possible, indeed, even to become President of the United States other than by the process of election. But, Mr. Speaker, what among other matters distinguishes the House of Representatives is that membership in it can come only through election by the people. And that is a fact, Mr. Speaker, in which all of us who either serve at present in this body or have before had the honor and privilege of serving in the House gives us great pride.

Some of us are Democrats; some of us are Republicans, but we have worked together both within our parties and across party lines in the House of Representatives and Senate for the best interests of our country.

And so all of us—men, women, Democrats, Republicans—meeting here today, and those former Members who could not be with us today, are bound together in a common fraternity, and these days one perhaps ought to add sorority; for we have had, as Speaker Rayburn used to say, the high honor and great privilege of serving in the United States House of Representatives or Senate.

We are delighted to welcome you back. We look forward to being with you and chatting with you. You are welcome because you are home.

Thank you, Mr. Speaker.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to my friend from New York.

Mr. PEYSER. Mr. Speaker, I thank the gentleman for yielding. I just wanted to join very strongly with my majority whip, because having been a former Member for a brief period of time, and now being back in the Congress even though in a slightly different role because, for some of you who may not know, I enjoyed being a Republican for six years, and I have now returned as a Democrat from the same district. It is a very wonderful experience.

I just wanted to say, for any of you who are ready to come back, why, you ought to try it again. It has been very worthwhile, and I do want to join in welcoming you and saying what a great privilege it is for all of us to have you back here again.

Mr. BRADEMAS. I hope, Mr. Speaker, that I shall not be thought partisan by my beloved friend, the distinguished minority leader, if I remark after what Mr. PEYSER has just said that it is never too late to be saved.

The SPEAKER pro tempore. The Chair recognizes for remarks and whatever rejoinder he may deem appropriate the distinguished minority leader of the United States House of Representatives, the Honorable JOHN RHODES of Arizona.

Mr. RHODES. Mr. Speaker, my colleagues past and present, and perhaps future, it is a real pleasure for me to have the opportunity of joining with my good friend, the majority whip, in welcoming all of you, of whatever political persuasion, back to these Halls in which you all served so honorably and so well.

As I look around—I guess I say this every year, but it is just as true as it ever was before—I get the feeling that there is something unhealthy about serving in the House, because all of you look so much younger and better than you did when you were here. You have apparently found the Fountain of Youth or some salutory manner of living your lives which has caused you to actually look extremely well.

During the 25th reunion of my Harvard Law School class, about 3 o'clock in the morning, somebody looked around and said, "My goodness, don't we all look good?"

□ 1120

And one of the others said, "Yes, of course we do. The ones who didn't look good didn't come."

I do not really believe that that is the situation here.

Let me just tell you that things are characterized by their sameness as well as their difference. I think that the body which is the 96th Congress is a body which you would recognize in most ways. The rules are somewhat different. The personnel, of course, is very different.

I have a startling statistic for all of you, and that is that in me you are looking at one-third of the Republican Members of the House who ever served in a Republican Congress. That is a matter which we hope to take care of in this next election.

But nevertheless the facts are that there is a lot of similarity, in this Congress to others of the past. The capability of disagreeing without being disagreeable is still a quality which is highly prized by the Members of this body. In my almost 28 years here I have thought that one of the greatest privileges of serving in the House is the fact that we do have, this feeling of togetherness and the feeling that we are all trying to do some things with the idea in mind of helping our country to weather some of the storms and some of the crises that have come before us.

So it is an important day when the former Members come back here to reminisce and to given those of us who are still here the benefit of your wisdom.

This is a government of laws, but in many ways it is also very definitely a government of people. Each one of you, as well as our former colleagues who are not here today, have left your mark upon this institution. It is a great institution, one of which we are all proud and will continue to work for to continue it as the finest legislative, deliberative body in the history of the world.

Thank you, Mr. Speaker.

[Applause.]

The SPEAKER pro tempore. The Chair recognizes the gentleman from Maryland, the Honorable Carlton R. Sickles, for such remarks and yielding as he may care to undertake.

Mr. SICKLES. Thank you, Mr. Speaker.

Mr. Speaker, this is the tenth anniversary of the Former Members of Congress organization, and I am pleased to report to you that we are flourishing. We now have 560 members who served in the House or Senate of the United States. We now have more members than you do.

We thank the House and you for this opportunity to report briefly on our past year's educational, social and research activities. I hope you believe that the report is brief. We have condensed the report on the many things we did, but there are some things we think important enough to share with you.

First, I want to report to you that we have a very active board of directors of FMC. Let me tell you who they are:

Gerald R. Ford; Clare Boothe Luce; William S. Mailliard; John O. Marsh, Jr.; John S. Monagan; Hugh Scott; William B. Spong, Jr.; Charles B. Brownson; William L. Hungate; Frank E. Moss; Carlton R. Sickles; Robert Taft, Jr.; John H. Ware III; Gordon Allott; Andrew Biemiller; Daniel Brewster; Charles E. Chamberlain; Charles K. Fletcher; James M. Quigley; Brooks Hays; and Walter H. Judd.

Before proceeding with the report, let me express my sincere appreciation for the outstanding service rendered by our staff consisting of our Executive Director, Jed Johnson, who is himself a former member of Congress; our Counselor, Henry P. Smith, III, also a former member of Congress; and our staff Secretary, Dorothy E. Bageant, who works tirelessly to make all our goals and ideas happen.

I have been blessed personally by dedicated officers, namely, William Maillard, as Vice President; John Monagan, Secretary; and Charles Chamberlain, Treasurer, who, together with our immediate past President, Charles Brownson, make up a very hard working executive committee. And, of course, our founding members, Walter Judd and Brooks Hays, still participate actively. We are fortunate to have their continued counsel.

As you know, Mr. Speaker, we have a very active Campus Fellows Program. It provides the opportunity for college students and faculty to meet with persons who have served in the United States Congress who visit these college campuses as visiting fellows for up to a week at a time. To date we have completed visits to 58 college campuses in 28 States and have an additional 17 visits in an additional 5 States scheduled for the fall semester, which means that by the end of this calendar year we will have completed visits to 75 colleges and universities in 33 States. There are an additional 28 visits in the planning stage for next year. Thus far 29 of the members have been selected by colleges and universities to visit these campuses. We have a campus fellows register of nearly 200 members who have volunteered to participate in this program.

I stress, Mr. Speaker, that the institution itself selects the member it wants. However, to insure maximum objectivity, we do not allow a college to pick an alumni who served in the Congress from that particular State.

Our program, of course, is totally bipartisan. The fellows seek to interpret the Congress as an institution to the students, faculty, and townspeople. The virtually unanimous praise we have received back from college campuses convinces us that there is no question but the fellows' visits are helping fill a void of misunderstanding and, in many cases, ignorance of the Congress and how the legislative process functions.

We estimate that we have thus far reached approximately 30,000 students through this program. We have no doubt that many of the students have become interested in politics as a result of these visits and will become active participants in both political parties in the future.

At this point, Mr. Speaker, I would like to insert in the RECORD the names of the campuses where we have completed visits, the list of colleges of pending visits, and the list of those members who have participated in the program.

The lists are as follows:

CONGRESSIONAL ALUMNI CAMPUS FELLOWS PROGRAMS COMPLETED

Alaska Pacific University, Alaska.
Arizona State University, Arizona.
Assumption College, Massachusetts.
Baylor University, Texas.
Bradley University, Illinois.
Carleton College, Minnesota.
Coast Guard Academy, Connecticut.
Colgate University, New York.
College of the Sequoias, California.
Concordia College, Michigan.
Connecticut College, Connecticut.
Converse College, South Carolina.
Dartmouth College, New Hampshire.
Davis & Elkins College, West Virginia.
Denison University, Ohio.
Ekerd College, Florida.
Elmira College, New York.
Friends University, Kansas.
Furman University, South Carolina.
Grinnell College, Iowa.
Gustavus Aldophus College, Minnesota.
Hamilton College, New York.
Hiram College, Ohio.
Hope College, Michigan.
Indiana State University, Indiana.
Jackson State University, Mississippi.
Johns Hopkins University, Maryland.
Kansas-Newman College, Kansas.
King's College, Pennsylvania.
Kirkland College, New York.
Lake Forest College, Illinois.
Mary Hardin-Baylor, Texas.
Mesa Community College, Arizona.
Millsaps College, Mississippi.
Murray State University, Kentucky.
Navy Academy, Maryland.
Otterbein College, Ohio.
Randolph-Macon College, Virginia.
Rose-Hulman Institute of Technology, Indiana.
St. Lawrence University, New York.
St. Mary-of-the-Woods College, Indiana.
St. Michael's College, Vermont.
St. Olaf College, Minnesota.
Sangamon State University, Illinois.
Southeast Community College, Kentucky.
Southwestern College, Kansas.
Talladega College, Alabama.
Tougaloo Southern Christian College, Mississippi.
Transylvania University, Kentucky.
University of Alaska, Alaska.
University of California—Berkeley, California.
Urbana College, Ohio.
Vanderbilt University, Tennessee.
Virginia Military Institute, Virginia.
Wake Forest University, North Carolina.
Washington & Lee University, Virginia.
Whitman College, Washington.
William & Mary College, Virginia.

CONGRESSIONAL ALUMNI CAMPUS FELLOWS PROGRAMS PENDING

Alfred University, New York.
Brandeis University, Massachusetts.
Carroll College, Montana.
Chatham College, Pennsylvania.
DePauw University, Indiana.
Montclair State College, New Jersey.
New Jersey Institute of Technology, New Jersey.
Northern Illinois University, Illinois.
Otterbein College, Ohio.
University of Albuquerque, New Mexico.
University of Arkansas, Arkansas.
University of New Mexico, New Mexico.
University of North Dakota, North Dakota.
Xavier University, Ohio.

CONGRESSIONAL ALUMNI CAMPUS FELLOWS

Gordon L. Allott, Colorado.
J. Glenn Beall, Jr., Maryland .
Andrew J. Biemiller, Wisconsin.
Howard H. Callaway, Georgia.
Joseph S. Clark, Pennsylvania.
Philip Hayes, Indiana.
Brocks Hays, Arkansas.
William L. Hungate, Missouri.
Jed Johnson, Jr., Oklahoma.
Walter H. Judd, Minnesota.
David S. King, Utah.
Allard K. Lowenstein, New York.
Donald E. Lukens, Ohio.
Gale W. McGee, Wyoming.
William S. Mailliard, California.
John D. Marsh, Jr., Virginia.
Walter H. Moeller, Ohio.
John S. Monagan, Connecticut.
Frank E. Moss, Utah.
Roman Pucinski, Illinois.
James M. Quigley, Pennsylvania.
James Roosevelt, California.
Hugh Scott, Pennsylvania.
Henry P. Smith, III, New York
Neil Staebler, Michigan.
Newton I. Steers, Jr., Maryland.
Charles W. Whalen, Jr., Ohio.
Ralph W. Yarborough, Texas.

Mr. Speaker, I am also pleased to report that we had a most successful 9th annual meeting in Ottawa, Canada, last September. This was our annual fall meeting. More than 100 of our members and spouses participated, and we toured the Canadian Parliament, had a briefing on Canadian-U.S. relations by the Canadian Foreign Ministry, and met with members of the Canadian Parliament.

Subsequent to one meeting in Ottawa through a grant from the Johnson Foundation of Racine, Wis., we held a seminar at "Wingspread" on Canadian-U.S. relations with six present and former members of the Canadian Parliament, one of whom is now the Foreign Minister of Canada. This was our third successful seminar at "Wingspread." The preceding two were on "the U.S. and the United Nations" and "Japan and the U.S." As a result of our successful visit to Canada last fall, we are planning our 10th annual fall meeting this year to be held at Mexico City, to which Mr. Speaker, you are invited.

This year we have also begun study tours for our members. We have had two trips to the People's Republic of China, in which 30 of our members and spouses have participated at their own expense. My wife and I have just returned from the second of these trips to China.

If I may make a personal comment, Mr. Speaker, for my wife, Simmy, this was a return home to Shanghai after 35 years away.

Let me express my appreciation to Tian You and the staff of the Embassy of China for helping arrange these tours, and to Yang Yan Yi and the staff of the China Travel Service for making the trip so successful.

Also, 20 of our members and spouses will be leaving next week for a study tour of the European economic community which will begin in London on May 28 and end in Berlin with a seminar at the Aspen Institute on June 14.

These trips are valuable not only for our members but to help build bridges between the people of our country and the other countries of the world.

□ 1130

There is, incidentally, now an organization in the Federal Republic of Germany called the Society of Former Members of the Bundestag, which numbers more than 300 members, and their president, Mr. Gerstenmaier, is the former president of the Bundestag. Their organization is modeled on ours. We expect to begin cooperative educational programs with them in the coming year. We expect to hold a fourth wingspread seminar on German-United States relations next year.

You may ask, Mr. Speaker, what good do these seminars do.

Let me give you an illustration. Beyond the obvious better understanding of one another's points of view, after the seminar with former members of the Japanese Diet, we realized that there are a number of fundamental differences between the Japanese Diet and the U.S. Congress, and often these differences can result in severe misunderstandings between members of the two legislative bodies. We sought to find out if a comparative study has even been undertaken comparing the U.S. Congress and the Japanese Diet. We found that there is no such study. We are undertaking it.

Under a research grant from the Japan-United States Friendship Commission, we will hold a seminar this December at the East-West Center at Honolulu, Hawaii, bringing together former members of the Japanese Diet and the U.S. Congress to critique papers written by scholars on both sides of the Pacific describing our similarities and differences between the Congress and the Diet in such areas as the initiation of legislation, the oversight jurisdiction, the budget process, staffing and the legislative role in making foreign policy. These papers will be published in Japanese and English in a handbook, which will be made available to Members of Congress and the Diet, as well as other government officials in the two countries.

We are very fortunate to have the author of the handbook and director of the project, the long-time Secretary of the Senate, Francis Valeo, who is an expert on both the Congress and the Diet.

This brings me now, Mr. Speaker, to a presentation which I am very proud to make. During the last 3 years, we have been conducting the first major oral history of the Congress. Each of the presidential libraries have oral histories of the presidencies. We hope this will be

a continuing oral history of the Legislative branch, the Congress. More than 100 oral history interviews have been completed. We are presenting today to the Librarian of the Congress the first of those that have been completed. There are some 50 of these displayed on the desk to my right rear. This project has been funded by a grant from the National Endowment for the Humanities, the Rockefeller Foundation and the Finance Factors Foundation of Hawaii. The project is under the able direction of Dr. Robert B. Peabody, political science professor at Johns Hopkins University. Dr. Peabody is also a former congressional staff assistant. I am sorry that Senator Fong cannot be here to represent the Finance Factors Foundation, Dr. Daniel Boorstin, Librarian of the Congress, is here in the chamber, and I ask him to come forward and receive the presentation. I yield to Dr. Boorstin such time as he may use in order to make his own remarks.

Mr. BOORSTIN. Mr. Speaker, former Members and Members, on behalf of the Library of Congress, I accept with gratitude these records of the activities of former Members of Congress.

We at the Library of Congress, your library, welcome this additional resource to help us interpret and to celebrate this great and most representative institution.

[Applause.]

Mr. SICKLES. Mr. Speaker, at this time I will place in the RECORD a list of former Members who have been interviewed to date:

ORAL HISTORY INTERVIEWS BY FORMER MEMBERS OF CONGRESS

Bella S. Abzug.
Sherman Adams.
Hugh Q. Alexander.
Gordon L. Allott.
Leslie C. Arends.
Wayne N. Aspinall.
William H. Ayres.
Joseph H. Ball.
Laurie C. Battle.
Frank J. Becker.
Catherine May Bedell.
Wallace F. Bennett.
John A. Blatnik.
Iris F. Blitch.
Reva Beck Bosone.
John W. Bricker.
William E. Brock III.
Charles B. Brownson.
John W. Byrnes.
William T. Cahill.
Emanuel Celler.
J. Edgar Chenoweth.
Marguerite Stitt Church.
Joseph S. Clark.
William Sterling Cole.
William M. Colmer.
N. Neiman Craley, Jr.
Thomas B. Curtis.
Robert V. Denny.
William Jennings Bryan Dorn.
Emily Taft Douglas.
Paul Fannin.
Elizabeth P. Farrington.
Homer Ferguson.
Charles K. Fletcher.
Hiram L. Fong.
J. Allen Frear, Jr.
Peter H. Frelinghuysen, Jr.
James William Fulbright.
Thomas P. Gill.
Charles E. Goodell.
Frank Graham.
Edith Green.
Martha W. Griffiths.
Charles S. Gubser.
Gilbert Gude.
Durwood G. Hall.
Leonard W. Hall.
Julia Butler Hansen.
Ralph R. Harding.
Porter Hardy, Jr.
Vance Hartke.
Brooks Hays.
Patrick J. Hillings.
Craig Hosmer.
William L. Hungate.
W. Pat. Jennings.
Charles Rapier Jonas.
Robert E. Jones.
Walter H. Judd.
James Kee.
Hastings Keith.
Edna Flannery Kelly.
Horace R. Kornegay.
Melvin R. Laird.
Phillip M. Landrum.
John Davis Lodge.
Rodney M. Love.
Clare Boothe Luce.
John W. McCormack.
Gale W. McGee.
Ray J. Madden.
William S. Mailliard.
Carter Manasco.
George Meader.
Wilbur D. Mills.
Patsy T. Mink.
Walter H. Moeller.
John S. Monagan.
Thomas E. Morgan.
Frank E. Moss.
Abraham Multer.
Maureen B. Neuberger.
George E. Outland.
Lafayette L. Patterson.
James Roosevelt.
Donald H. Rumsfeld.
Leverett Saltonstall.
Henry C. Schadeberg.
Fred D. Schwengel.
Ralph J. Scott.
George A. Smathers.
Henry P. Smith III.
Katharine St. George.
William L. Springer.
Leonor K. Sullivan.
Robert A. Taft.
John H. Terry.
Clark W. Thompson.
Stewart L. Udall.
James E. Van Zandt.
Horace Jeremiah Voorhis.
Albert L. Vreeland.
Stuyvesant Wainwright II.
Lindsay Warren.
Otha Wearin.
Basil L. Whitener.
William B. Widnall.
John J. Williams.
Chase Going Woodhouse.

Mr. SICKLES. Mr. Speaker, before turning to the presentation of our annual award, it is my sad duty to inform the House of the names of our deceased alumni of the Congress since our meeting last year. Before reading the list, let me say that we were especially grieved and, indeed, shocked at the tragic and violent death of our colleague, Allard K. Lowenstein, of New York. Just an hour before being shot to death, he had final arrangements to participate once again in our campus fellows program at Carroll College in Montana, where he planned to take his three small children to show them the Western part of our country. In addition to Allard, the other deceased Members are:

Dewey F. Bartlett, Oklahoma.
William G. Bray, Indiana.
John B. Breckenridge, Kentucky.
Clarence N. Brunsdale, North Dakota.
John Marshall Butler, Maryland.
Harry P. Cain, Washington.
Homer E. Capehart, Indiana.
Terry M. Carpenter, Nebraska.
Albert W. Cretella, Connecticut.
Ken W. Dyal, California.
Clyde T. Ellis, Arkansas.
Billie S. Farnum, Michigan.
Phil Ferguson, Oklahoma.
James B. Frazier, Jr., Tennessee.
E. C. Gathings, Arkansas.
Leonard W. Hall, New York.
F. Edward Hébert, Louisiana.
Evan Howell, Illinois.
Sherman P. Lloyd, Utah.
Allard K. Lowenstein, New York.
William M. McCulloch, Ohio.
William D. McFarlane, Texas.
John L. McMillan, South Carolina.
Donald H. Magnuson, Washington.
Edward A. Mitchell, Indiana.
Joseph M. Montoya, New Mexico.
Tom Moorehead, Ohio.
Rogers C. B. Morton, Maryland.
Frederick Muhlenberg, Pennsylvania.
Charles O. Potter, Michigan.
Leo F. Rayfiel, New York.
Chapman Revercomb, West Virginia.
James P. Richards, South Carolina.
R. Walter Riehlman, New York.
Leverett Saltonstall, Massachusetts.
Alfred E. Santangelo, New York.
J. Irving Whalley, Pennsylvania.
Herbert Zelenko, New York.

I ask, Mr. Speaker, that you call for a moment of silence in respect to these departed Members.

The SPEAKER pro tempore. May we all observe a moment of silence together as we commemorate in solemn memory these former colleagues.

Mr. SICKLES. Now, Mr. Speaker, we turn to the presentation of our Distinguished Service Award.

Each year we present a Distinguished Service Award. This is a nonpartisan award presented in recognition of distinguished service to the Congress and the country. Last year's recipient was George Mahon of Texas. The previous recipients were the late Nelson Rockefeller, former Senator Sam J. Ervin, Jr., former President Gerald F. Ford, former Speaker John McCormack, and the late House Parliamentarian, Lou Deschler.

This year's award recipient is former Congresswoman Clare Boothe Luce, who served in the Congress from the State of Connecticut from 1943 to 1947 and was subsequently U.S. Ambassador to Italy.

Mrs. Luce had planned to be here with us today, but late last week her doctor ordered her not to fly from Hawaii because of a severe retina problem in her eyes. Mr. Speaker, in Mrs. Luce's behalf, I therefore want to call upon Mr. Henry Luce III to receive the award and make such response as he feels appropriate.

[Applause.]

Mr. LUCE. Thank you, Mr. Sickles.

Mr. Speaker, present and former Members of Congress: I know Clare will be enormously pleased and thrilled by this award that you have presented her today. I also am very grateful to you for it.

For myself, to be speaking in this Chamber is a sudden and marvelous privilege. In the days when I sat in the press galleries and lurked in the anterooms buttonholing hurried Members, I

certainly never expected to be talking into this microphone. It is perhaps the latest evidence of the incursions of the fourth estate. So I appreciate the honor of being asked to represent my dear stepmother here today, and I bring you this message from her.

□ 1140

She says:

Mr. Speaker, distinguished present and former Members, I am deeply grateful to you for the honor you have done me in giving me your Distinguished Service Award.

I want especially to thank former President Gerald Ford, Senator Hugh Scott, and my dear and noble friend, Walter Judd. My gratitude to them and to all my old colleagues and friends is only exceeded by my disappointment that I am not able to be with you today. I had wanted so much to stand one last time on the floor of the House and to bid an affectionate farewell to you all, and to the historic chamber, which is the tempestuous temple of our democracy.

I also thank you for permitting me to send this message in absentia from my home in far-off Hawaii.

As you so well know, a certain infamous and tragic event took place out here on December 7, 1941, which changed the entire history of the world and affected millions of lives—mine included.

For Pearl Harbor set in train a series of political events in the Fourth Congressional District of Connecticut which resulted in my election to the 78th and 79th Congresses. I will always be proud that I served on the House Military Affairs Committee, in the greatest war-time Congresses in all American history.

From the day the U.S.A. declared war on the Axis powers, there was one overarching priority for all of us members: to support and secure the triumph of American and Allied arms.

No one in those Congresses needed to be reminded by the generals that there is no substitute for victory.

No congressman needed to be told on December 8th, 1941, to sit down on his knees and thank God that the bitterly controversial Selective Service Act of 1940 had passed by one vote, and that we had at least the framework for an army.

No congressman needed to be told, after the successful sneak attack on Pearl, that surprise is vital, if not the single most important condition for success in war—that secrecy, deception, and disinformation are essential to the achievement of surprises like Pearl Harbor—and that the best defense against a surprise attack by a powerful enemy is a well-coordinated intelligence machine.

No congressman needed to be told that the shocking state of American unpreparedness had encouraged the Axis' attack, and that if the U.S. had been prepared, World War II might have been entirely averted.

It was believed by the 78th and 79th, and most of the Congresses in the '50s and early '60s, that the U.S. had learned, for once and for all, that a sound foreign policy and an adequate defense is the shield of the Republic, and the one welfare program that is truly essential for the nation.

Today, Senator Henry Jackson, a Democrat, tells us that our foreign policy of detent vis-a-vis the Soviet Union "lies in shreads" and that our security is, once again, in grave danger. And he calls for a revival of the bipartisan foreign policy which, from 1941 to 1961, carried the United States to the pinnacle of strength and greatness.

"The survival of the nation in an increasingly hostile world is not a partisan issue," Senator Jackson says, "and no one political party has a monopoly on good sense and thoughtful counsel." To Democrat Jackson's Churchillean call for a non-partisan U.S. foreign policy, the up-grading of our defenses, and the strength and will to restore our role of world leadership, a large amen.

The choice which perennially confronts a diverse and far-flung democracy is whether it intends to be a nation with freedoms or a set of peoples with license.

We were warned of this by a great Republican,—the greatest—whose words I pray you will ponder: "If destruction be our lot," Abraham Lincoln said, "we must ourselves be its author and finisher. As a nation of free men, we must live through all time, or die by suicide."

Ladies and gentlemen, we are now, forty years after passage of the Selective Service Act, living through another time of peril. It will again be a test for those who have succeeded us to stewardship in this Congress of how well and long The Republic will endure. I feel confident that, with God's help, they will meet that test.

Bless you all.

[Applause.]

Mr. SICKLES. Finally, Mr. Speaker, I am pleased to report that if matters proceed as planned, our president for the next year will be William Mailliard, former Republican Congressman from California, and our vice president, former Democratic Congressman John Monagan of Connecticut.

In addition, I am informed that the nominating committee today will later nominate for 3-year terms on our board of directors, the following persons:

Catherine May Bedell of Washington.

Martha Keyes of Kansas.

Gale McGee of Wyoming.

Hugh Scott of Pennsylvania.

Mr. Speaker, this concludes our 10th annual report to the Congress. We look back to the last 10 years with pride. We look forward to the next 10 years with anticipation.

In closing, I would like to insert in the RECORD the names of those foundations, corporations and individuals whose contributions have made our growing educational and research programs possible.

NAME OF CONTRIBUTORS

Japan-U.S. Friendship Commission.
Lilly Endowment, Inc.
National Endowment for the Humanities.
Anonymous private foundation.
Claude Worthington Benedum Foundation.
Ford Foundation.
Flora and William Hewlett Foundation.
John Crain Kunkel Foundation.
Charles Stewart Mott Foundation.
Rockefeller Foundation.
U.S. Department of State, Bureau of Education and Cultural Affairs.
Anonymous.
Battelle Memorial Institute.
Beechcraft.
Charles B. Brownson.
Castle & Cook.
Champion International Corporation.
Dr. Scholl Foundation.
E. I. du Pont de Nemours & Co.
Exxon U.S.A. Foundation.
Finance Factors Foundation.
Florence & John Schumann Foundation.
Former Members of Congress Auxiliary.
Ford Motor Company Fund.
Brooks Hays.
Hercules, Inc.
Home Federal Savings & Loan Association, San Diego, California.
I.B.M.
Mrs. Benjamin F. James.
Johnson Foundation.
Jed Johnson, Jr.
Walter H. Judd.
Louise Taft Semple Foundation.
William S. Mailliard.
German Marshall Fund of the U.S.
D. Bailey Merrill.
Mobil Oil Corporation.
National Association of Independent Insurers.
National Study Commission on Records and Documents.
Pacific Federal Savings & Loan Association, Hollywood, Calif.
Panhandle Eastern Pipeline Company.
Pioneer Federal Savings & Loan Association, Honolulu, Hawaii.
Prudential Foundation.
Smithkline.
U.S. Capitol Historical Society.
Warner-Lambert Co.
Whalley Trust.
World Relief Foundation.

Thank you for your patience, and I yield back the balance of my time.

[Applause.]

● Mr. O'NEILL. Mr. Speaker, I apologize that I was unable to be present during the ceremonies for the annual meeting of former Members of the House of Representatives. Unfortunately, I had to attend a presidential briefing on oil importation, followed by a previous speech commitment I had made.

I know so many old and dear friends were gracing the House Chamber earlier today. Your friendship, advice and support over the years have been very special and important to me. Though we do not see and chat with each other on a daily basis, nonetheless, the bonds of trust. friendship, and fraternal spirit remain. I have often admired and respected the many achievements and successes that you have left as a legacy to those of us who still serve in the House, where the American people govern. We look to you as our examples. With the same vigor and enthusiasm and commitment to principle to which you adhered so steadfastly, we shall grapple with the Nation's problems and be guided to make the right decisions at the time, leaving the consequences to providence.

As former Members, all of you had the unique privilege of serving in the only legislative body in the land where you have to be elected to get here. You can be appointed Senator, Governor, Vice President, and President, but you have to be elected to serve in the House of Representatives. Election to the House of Representatives has stood out as one of the most cherished honors of my life—the others have been my marriage and the offspring of that marriage, my children and grandchildren. I know many of you who visited today share similar sentiments.

Public service in the national legislature is a career that affords many splendid opportunities to help and to serve people. No other career in this land offers the same range of challenges and responsibilities; no other career attracts more honorable men and women willing to live their lives in a fishbowl in order to serve the public trust. Collectively, the

Members of the House of Representatives represent every segment of American society. We often make mistakes, but we have not attained the responsibilities and obligations of our office by avoiding challenges and decisions. In the critical challenges ahead we shall meet our responsibilities with the same courage and foresight that have guided those of you who have immediately preceded us, and that have guided other American leaders for over 200 years.

Service in the House of Representatives is a token of power, a token of responsibility, and a token of privilege. It is a public trust that is associated with all America's ideals and finest aspirations. It is a calling described by a famous New Englander, Ralph Waldo Emerson, as follows:

Not gold, but only men. can make
A nation great and strong,
Men, who for truth and honor's sake,
Stand fast and suffer long,
Brave men who work when other men sleep
Who dare while others fly,
They build a nation's pillars deep,
And lift them to the sky.

I am delighted to say so many of you visited the Chamber today. I look forward to these annual reunions where we can continue to reminisce about the fond memories of this great legislative body; and I want all of you to know, that as long as I am Speaker of the House of Representatives, the door is always open.

God bless each and every former Member.●

The SPEAKER pro tempore. Before terminating these enjoyable proceedings, the Chair would like to invite any former Members who did not respond when the roll was called to give their names to the reading clerk for inclusion on the roll.

The Chair again wishes to thank the former Members of the House for their presence here today in what Clare Booth Luce has so appropriately called "this tempestuous temple of our democracy."

Good luck to all of you.

The House will stand in recess.

Accordingly (at 11 o'clock and 50 minutes a.m.), the House continued in recess until 12 o'clock noon.

□ 1200
AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. WRIGHT) at 12 o'clock noon.

RESCISSION PROPOSAL IN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-314)

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed.

(For message, see proceedings of the Senate of today, May 20, 1980.)

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 6081. An act to amend the Foreign Assistance Act of 1961 to authorize assistance in support of peaceful and democratic processes of development in Central America.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1644. An act to declare a national weather modification policy, to establish a national program of research and development in weather modification, to provide for the reporting of weather modification activities, and for related purposes.

The message also announced that the President pro tempore, pursuant to Public Law 94-201, appointed Mr. David E. Draper, of Mississippi, from private life, to the Board of Trustees of the American Folklife Center, effective March 3, 1980, for a term of 6 years.

CALL OF THE HOUSE

Mr. BADHAM. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 240]

Abdnor	Cheney	Gephardt
Addabbo	Clausen	Gilman
Akaka	Clay	Gingrich
Albosta	Clinger	Ginn
Alexander	Coelho	Glickman
Ambro	Coleman	Gonzalez
Anderson, Calif.	Collins, Ill.	Goodling
	Collins, Tex.	Gore
Anderson, Ill.	Conable	Gradison
Andrews, N. Dak.	Conte	Gramm
	Courter	Gray
Annunzio	Crane, Daniel	Green
Anthony	Crane, Philip	Grisham
Applegate	Daniel, Dan	Guarini
Ashbrook	Daniel, R. W.	Gudger
Aspin	Danielson	Guyer
Badham	Dannemeyer	Hagedorn
Bafalis	Davis, Mich.	Hall, Tex.
Bailey	de la Garza	Hamilton
Baldus	Dellums	Hammer-schmidt
Barnard	Derwinski	
Bauman	Devine	Hance
Beard, R.I.	Dickinson	Hanley
Beard, Tenn.	Dicks	Harkin
Bedell	Dixon	Hawkins
Bellenson	Dodd	Hefner
Benjamin	Dornan	Heftel
Bennett	Dougherty	Hightower
Bereuter	Downey	Hillis
Bethune	Duncan, Tenn.	Hinson
Bevill	Early	Holland
Biaggi	Edgar	Hopkins
Bingham	Edwards, Ala.	Horton
Blanchard	Edwards, Calif.	Howard
Boggs	Edwards, Okla.	Hubbard
Boland	Emery	Huckaby
Bolling	English	Hughes
Boner	Erdahl	Hutto
Bonior	Erlenborn	Hyde
Bonker	Ertel	Ichord
Bowen	Evans, Del.	Ireland
Brademas	Evans, Ga.	Jacobs
Breaux	Evans, Ind.	Jeffords
Brinkley	Fary	Jeffries
Brodhead	Fazio	Jenkins
Brooks	Fenwick	Johnson, Calif.
Broomfield	Ferraro	Johnson, Colo.
Broyhill	Findley	Jones, N.C.
Buchanan	Fish	Jones, Okla.
Burgener	Fisher	Jones, Tenn.
Burlison	Fithian	Kastenmeier
Burton, John	Flippo	Kazen
Butler	Ford, Tenn.	Kelly
Byron	Forsythe	Kemp
Campbell	Fountain	Kildee
Carney	Fowler	Kindness
Carr	Frenzel	Kogovsek
Carter	Fuqua	Kostmayer
Cavanaugh	Garcia	Kramer
Chappell	Gaydos	LaFalce
Lagomarsino	Nelson	Smith, Iowa
Latta	Nichols	Smith, Nebr.
Leach, Iowa	Nolan	Snowe
Leach, La.	Nowak	Snyder
Leath, Tex.	O'Brien	Solarz
Lederer	Oakar	Solomon
Lee	Oberstar	Spence
Lent	Obey	St Germain
Levitas	Ottinger	Stack
Lewis	Panetta	Staggers
Livingston	Pashayan	Stangeland
Loeffler	Patten	Stanton
Long, La.	Patterson	Steed
Long, Md.	Paul	Stenholm
Lowry	Pease	Stockman
Lujan	Pepper	Stokes
Luken	Perkins	Stratton
Lundine	Petri	Studds
Lungren	Peyser	Stump
McClory	Pickle	Swift
McCormack	Porter	Synar
McDade	Price	Tauke
McHugh	Pritchard	Taylor
Madigan	Pursell	Thomas
Maguire	Quayle	Thompson
Markey	Quillen	Traxler
Marks	Rahall	Trible
Marlenee	Railsback	Vander Jagt
Marriott	Ratchford	Vento
Martin	Regula	Volkmer
Matsui	Reuss	Walgren
Mattox	Rhodes	Walker
Mavroules	Richmond	Wampler
Mazzoli	Rinaldo	Watkins
Mica	Ritter	Weaver
Michel	Roberts	Weiss
Miller, Calif.	Robinson	White
Miller, Ohio	Rodino	Whitehurst
Mineta	Rosenthal	Whitley
Minish	Rostenkowski	Whittaker
Mitchell, Md.	Roth	Whitten
Mitchell, N.Y.	Rousselot	Williams, Mont.
Moakley	Roybal	Williams, Ohio
Moffett	Royer	Wilson, Bob
Mollohan	Rudd	Wilson, Tex.
Montgomery	Russo	Winn
Moore	Sabo	Wirth
Moorhead, Calif.	Satterfield	Wolff
	Sawyer	Wolpe
Moorhead, Pa.	Schroeder	Wright
Mottl	Schulze	Wyatt
Murphy, Ill.	Seiberling	Wylie
Murphy, N.Y.	Sensenbrenner	Yates
Murphy, Pa.	Shannon	Yatron
Murtha	Sharp	Young, Alaska
Musto	Shelby	Young, Fla.
Myers, Ind.	Shumway	Young, Mo.
Myers, Pa.	Shuster	Zablocki
Natcher	Simon	Zeferetti
Nedzi	Skelton	

□ 1210

The SPEAKER pro tempore (Mr. ZEFERETTI). On this rollcall, 355 Members have recorded their presence by electronic device, a quorum.

Pursuant to the rule, further proceedings under the call are dispensed with.

□ 1220
EXTENDING EXPIRATION DATE OF DEFENSE PRODUCTION ACT OF 1950

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 175) to extend the expiration date of the Defense Production Act of 1950, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman from Pennsylvania informed me earlier that this is simply a 3-month extension so that the conference can work out the problems that exist in the bills that have been passed. Is that correct?

Mr. MOORHEAD of Pennsylvania. The gentleman is correct. I have reason to hope that we can reach agreement on

pretty well all, or virtually all, of the conferees in the next day or so, but there will have to be drafting of the legislative language, so that the conference report cannot immediately be brought to the floor of the House.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 175

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) as amended by striking out "May 27, 1980" and inserting in lieu thereof "August 27, 1980".

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PRINTING OF PROCEEDINGS HAD DURING RECESS AND GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD and that all Members and former Members who spoke during the recess have the privilege of revising their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON SURFACE TRANSPORTATION OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO MEET WHILE HOUSE IS IN SESSION

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation be permitted to meet while the House is in session today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CONGRESS SHOULD DENY SUPPORT FOR OIL IMPORT FEE

(Mr. MOFFETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOFFETT. Mr. Speaker, there has been a suggestion by the President of the United States that this body is reflecting a lack of political courage in refusing to support the President's 10-cents-per-gallon oil import fee. I think it is important that Members begin to respond to that suggestion and that charge by the President.

It is easy for those of us who are not as concerned about making payments on bills and losing jobs, and so forth, to say that 10 cents a gallon is nothing, and that this is a wonderful signal to send to OPEC. I would suggest to my colleagues—and I think that the majority of my colleagues on both sides of the aisle agree with this—that this import fee is more an empty signal than an important symbol to OPEC; that in fact it is being used as a revenue-raising measure to produce a phony balanced budget, not a genuine balanced budget, and that we ought to stand up and say that the American people have had enough of price increases in energy.

The documents that our Government Operations Subcommittee has finally obtained indicate that this is not an important conservation measure; that in fact it will not fall only on gasoline, but on heating oil and diesel fuel, and there is no need for this body to approve it.

CONGRESS SHOULD DISAPPROVE OIL IMPORT FEE

(Mr. SHANNON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHANNON. Mr. Speaker, this Thursday the Ways and Means Committee is scheduled to take up for consideration the resolution which would disapprove the President's oil import fee. I think that it is essential to give the people of this country a clear signal that we are not going to go on continuing to pass regressive tax legislation, that we report out that resolution, that we bring it forthwith to the floor of the House.

We have had extensive investigations into this in the Ways and Means Committee, the Government Operations Committee, and the Commerce Committee, and it is absolutely clear that this is not a conservation measure, but a tax measure, a subterfuge, an effort to balance the budget by raising taxes. We have been accused in the House of Representatives of not having the will, not having the desire, not having the vision to support strict conservation policies to deal with OPEC. This provision, this oil import fee, will not deal with OPEC. It will not result in real conservation. In fact, it is the opinion of many people that it will be a signal to OPEC to raise prices further.

This is bad economic policy; it is bad energy policy; it is bad tax policy, and I hope that the House of Representatives will pass this resolution quickly.

AN EXERCISE IN POLITICAL WILL

(Mr. MAGUIRE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAGUIRE. Mr. Speaker, last Thursday President Carter, in a speech from the Rose Garden, said that Congress lacked the political will to help him impose the $11 billion oil import fee. I thought that comment odd for several reasons.

First, instead of sending a tax bill to Congress for us to examine, the President attempted to use an obscure trade law to implement an import fee for which he had no clear authority.

Second, instead of instructing his representatives to discuss the planning and implementation of this policy with the House Subcommittee on Energy, Environment and Natural Resources, he had Secretary Duncan risk citation for contempt of Congress in order to withhold documents which we needed to evaluate the tax.

Third, instead of calling for temperature restrictions on thermostats, or odd-even purchasing gasoline plans, or installing flow restrictors in showers, each of which could save far more energy at a fraction of the cost, the President asked consumers to take an $11 billion bath in exchange for saving a negligible amount of energy.

By challenging this ill-conceived tax, we exercised the political judgment to say that the emperor was not wearing any clothes.

It would be refreshing for consumers to know that sane energy, economic and conservation policies can be implemented without making them pay astronomically more. There are creative and sensible and cost-effective alternatives to this tax, inflation-proof conservation measures which we can adopt now which would save more fuel than the President's plan would have saved. This Congress should do much more than it has, but I think saying no to the oil import fee is a very sound decision.

OIL IMPORT FEE RESOLUTION OF DISAPPROVAL SUPPORTED

(Mr. SYNAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SYNAR. Mr. Speaker, regardless of how the Federal court system eventually rules on the President's legal authority to impose the fee and accompanying entitlements system, the proposal is faulty on the merits and should be disapproved by the entire House.

I am a long time and strong advocate of energy conservation. It is the best short-term energy solution available to us. But that conservation must be targeted and effective. The oil import fee is neither.

Every bit of information I have seen on the Energy and Environment Subcommittee indicates to me that the administration's estimate of the fee's conservation impact is optimistic and exaggerated.

Furthermore, I am absolutely convinced that DOE cannot enforce the proposed passthrough on gasoline alone. It is clear, and the administration all but admits, that the marketplace and the marketplace alone will decide where this extra cost falls.

If the American people must pay an additional $11 billion for conservation, it can be much better targeted and it certainly can be at an equivalent cost less than the $280 per barrel that this fee would work out to.

I strongly urge my colleagues to pass the resolution and reject this ill-conceived program.

PRESIDENT'S OIL IMPORT FEE HAS BAD ECONOMIC EFFECTS

(Mr. DOWNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, the speakers before me have eloquently talked about the impact of this absurd tax on the national economy. I am fortunate on Long Island to have my local newspaper (Newsday) contract with the Walton School of Business to do an econometric study on what impact this tax would have on Long Island. We find that it depresses retail sales, reduces jobs, erodes personal income, increases inflation; and most of all, it reduces the purchasing power of the people on Long Island at a time when they can least afford it.

□ 1230

So, Mr. Speaker, the fact is that this tax will not really conserve energy, but it will increase inflation, it is unenforceable, and it is probably illegal. But other than that, it is really an excellent idea.

ADMINISTRATION'S RECORD SHOULD GIVE RISE TO SHAME AND EMBARRASSMENT

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, last week I suggested to this House what nearly every Member knows to be the case—that the new budget we just passed will not be balanced—contrary to the claims of the majority leader.

He seems to think that this budget will show a $2 billion surplus—and he suggested that I, a freshman member of the minority party, am to blame for the big-spending and high-taxing policies of the majority.

Mr. Speaker, the American people are not going to be fooled by the majority leader's attempts to pass the buck. They look back over the 4 years of Jimmy Carter's Presidency and see record budget deficits—18 percent inflation and 18 percent interest rates.

The American people recall that in 1976, Candidate Jimmy Carter told President Ford that he ought to be ashamed of himself for defending his economic record, which was 4.8 billion inflation and 6.5 interest rates.

Mr. Speaker, after the disastrous economic performance of this administration and the majority in this Congress, the President and the House leadership should not only be ashamed. They should be downright embarrassed.

APPOINTMENTS TO NICARAGUAN JUNTA POINT TO NEED FOR NICARAGUAN AID BILL

(Mr. HARKIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARKIN. Mr. Speaker, I see today that in Nicaragua two new members were appointed to the ruling five-man junta to take the place of the two who had resigned a couple of weeks ago. One of the new members is Rafael Rivas, 56 years old, a Conservative Party politician and a member of the Supreme Court, and the second is Arturo Cruz, 54, president of the Central Bank.

Again, Mr. Speaker, let me say to my colleagues that the devastation that was left after the Nicaraguan revolution nearly 1 year ago continues. The $75 million loan bill, the authorization for which has recently been approved, needs to be backed up with the $75 million appropriation. I am hopeful that the recent actions in Nicaragua, with the appointment of these two new members, are sufficient to give lie to those views that say only the Marxists are in control in Nicaragua, that it is hopeless down there, and that all hope for democratic institutions is lost.

The SPEAKER pro tempore. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

PRESIDENT'S TAX ON GASOLINE SEEN AS A HEAVY TAX OF QUESTIONABLE VALUE

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, a few years ago the movie "Network" depicted a crazed television commentator who got people all over New York to open their windows and shout, "I'm mad as hell and I'm not going to take it anymore!"

Ironically, it turns out to be a prediction of what will happen if people in this country wake up one morning and find that gasoline has gone up 10 cents a gallon overnight—thanks not to OPEC, but to President Carter.

Fortunately, we can do something about this irritating, unnecessary and uncalled for tax.

There are at least five resolutions pending now which would prevent this tax from going into affect by one means or another.

I am cosponsoring two of them—the Latta resolution and the Shannon resolution.

I urge my colleagues to support one or all of these measures.

The American people do not need this tax for conservation purposes—they have already reduced gasoline consumption by 10 percent over last year.

And according to the Oil Dailey, there is considerable disagreement in the Department of Energy over the effectiveness of this tax to force gasoline conservation.

Apparently, the oil import fee cannot even be passed through entirely onto the price of gasoline alone—if that was the President's purpose.

To further burden the public with a heavy tax of questionable value seems ridiculous at this point.

Let us get rid of this tax.

OIL IMPORT FEE NOT A MACHO ISSUE

(Mr. STOCKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STOCKMAN. Mr. Speaker, the issue of the oil import fee is not one of political macho or the thickness of our spine, as the President suggests, but the issue before the House is whether or not we are going to be intimidated into acquiescing to a counterproductive and burdensome tax just because some "big thinkers" who write editorials for the Washington Post and the New York Times, or play around with toy energy models at the Department of Energy think that gasoline consumption is wasteful, extravagant, and immoral.

It is not. The American people are cutting back, and they have cut back 10 percent in the last year.

We do not need this tax, and if those "big thinkers" want it or if they believe gasoline consumption is wasteful, then they ought to get themselves a bike and pay the tax voluntarily or send the money to charity.

LITTLE SUPPORT SEEN FOR PRESIDENT'S 10-CENTS-A-GALLON GAS TAX

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, it is clear from committee activity and from remarks that have been made here on the floor this morning that there is just not a lot of support for the President's 10-cents-a-gallon gas tax.

That is why I was so surprised last Thursday when I was standing within 5 feet of the President and he tried to blame Congress for the idea of the 10-cent tax. He said he only put it on in the first place at the urging of Members of Congress.

Well, I came here last Thursday to the floor and asked those who urged the President to put this 10-cent tax on to come down and identify themselves, because I really do not know many Members here who are for it.

A tax is a tax is a tax. We do not need more taxes. Taxes in 1976 were $300 billion. This year, fiscal year 1981, they are going to go to $613 billion if we pass the idiotic budget we have been considering.

Mr. Speaker, enough is enough.

OIL IMPORT FEE IS NO ANSWER TO OPEC

(Mr. LOEFFLER asked and was given permission to adress the House for 1 minute and to revise and extend his remarks.)

Mr. LOEFFLER. Mr. Speaker, I rise in opposition to the $11 billion gasoline tax cloaked as an oil import fee.

This gasoline tax will do nothing to relieve the stranglehold that OPEC now

has over our great Nation. In fact, the proposed tax will exacerbate our dependence on economically debilitating and strategically vulnerable crude oil from the Middle East. Such a gasoline tax does nothing to increase desperately needed domestic supplies of energy. Rather, the bottom line is that a gasoline tax will force each and everyone of us, the consumers of America, to pay more for less for an extended period of time.

FURTHER OPPOSITION TO THE GASOLINE TAX

(Mr. QUAYLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUAYLE. Mr. Speaker, I join an elite group of people who obviously lack the political courage to support the 10-cent gas tax. Let us look at the 10-cent gas tax.

First of all, it sends no message to OPEC. Second, it will have a minimal effect on conservation. But what it does do is it gives to the Federal Treasury $10 billion more in an attempt by the President to "balance the budget."

More importantly, it does aggravate inflation. The No. 1 problem we have today is inflation, and $10 billion more in revenues is going to aggravate that inflation and not bring it down.

Mr. Speaker, the average motorist is estimated to spend over 100 after tax dollars if this gas tax is not repealed. The Congress should respond.

SUPPORT URGED FOR JOINT RESOLUTION TO DISAPPROVE OIL IMPORT FEE

(Mr. MOORE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORE. Mr. Speaker, I have cosponsored House Joint Resolution 531 to disapprove the President's announced crude oil import fee. The resolution, cosponsored at this time by 140 Members, was reported out of the Trade Subcommittee of Ways and Means Committee on May 14, by an overwhelming 17 to 14 margin. It is expected to be taken up by the full committee on Thursday, May 22.

The imposition of this fee, really a tax, is for the wrong reasons, at the wrong time, affecting the wrong segment of the marketplace. In the first place, consumers already are suffering through the worst inflationary spiral in history. We know that this tax will produce more inflation; in fact, the Congressional Research Service estimates that this will add an additional 1 percentage point to the Consumer Price Index.

Second, let us make no mistake about it, this import fee is not a conservation tax but a revenue-raising measure. Using the administration's own assumptions, a meager 100,000 barrels of oil per day would be expected to be saved (or about 0.5 percent of daily oil consumption).

Finally, the way the administration will implement the program reminds me of a (Rube Goldberg) juvenile's tinkertoy. The way the fee is collected, who pays for it, the timing of the collection, who reimburses whom, still remains very unclear to the importers, refiners, marketers and even the consuming public. It will be a bureaucratic nightmare.

I urge all my colleagues to join me in cosponsoring this resolution.

□ 1240 CARTER'S DECEPTION

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, last Tuesday, a Federal judge ruled that Jimmy Carter's 10 cent "conservation fee" for gasoline was "unlawful." The judge could very well have added "hypocritical."

The President's gasoline fee was a last minute gimmick to balance the Federal budget which had little to do with conservation of oil.

Everyone agrees that imported oil is the Achilles heel of the United States. An overnight cut-off of Saudi Arabian oil could strangle our economy and plunge us into a foreign war that no one wants. The national security question is urgent. How do we rid our economic system of its addiction to the 2.1 million barrels we import daily from the Persian Gulf?

The Carter gasoline fee might save 100,000 barrels per day by the end of the year. Compared to the 18.4 million barrels we use daily, this is a drop in the bucket.

Instead, we should be debating a substantial tax on gasoline, to go into a conservation trust fund. We should consider partially refunding these revenues to all Americans and partially plowing the revenues into a massive campaign to weatherize and insulate the Nation's dwellings. If Jimmy Carter were sincere about oil conservation and the national security threat of our dependence on the Persian Gulf, he should immediately reshape his energy policy to put conservation where it belongs, on an emergency fast track.

OPPOSITION TO OIL IMPORT FEE

(Mr. OBERSTAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBERSTAR. Mr. Speaker, with so many critical energy issues facing this country, it is distressing to me that so much of our time and attention has to be spent on this oil import fee. The fee is inflationary, it is a regressive tax, and it does not have any significant conservation benefit. It will not achieve, even in the long term, even a minor reduction in the use of gasoline and the importation of crude oil, but it will pose a very great and unacceptable burden on low- and middle-income people generally. I am especially concerned about the effect of this tax on low- and middle-income working people who have no alternative to driving to work, who have no public transportation. They do not have the resources to absorb the tax. They do not have an alternative to driving to work. They resent the tax. Moreover, they resent a tax being imposed upon them to balance the budget.

While I wish the time of the House would not have to be diverted to this question, I hope that we will have the opportunity in the very near future to vote against, and resoundingly against, the imposition of this tax, which will extract $90 billion from the American people over the next 5 years, in the largest tax bite in post-World War II U.S. history.

INCREASING REVENUES TO BALANCE THE BUDGET

(Mr. MILLER of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Ohio. Mr. Speaker, I have heard from my colleagues on both sides of the aisle about how they do not like the 10-cent-per-gallon gasoline tax. I am with you in your opposition. I too have signed and cosponsored legislation that would stop that tax. But you must go beyond that.

I have heard from the Democrat side they will balance the budget by increasing revenues, that is raise taxes, I heard it here today at least six times that they plan to balance the budget by increasing the revenue. That in my opinion is a false way to balance the budget. Those of my colleagues who are so recently converted to balancing the budget having opposed my previous efforts to cut spending will be pleased to know they can redeem themselves on the fiscal year 1981 appropriations bills.

You will have an opportunity to vote for the 5-percent reduction on the appropriation bills. If you think raising revenues is a false way to balance the budget you should be willing to bite the bullet and vote for reduced spending.

I have a sign, and after what I heard today I thought it was time to bring it out again. I have carried this sign to the floor on various occasions to make a very basic point about why it has been so hard to cut spending. The sign reads: "There are 1,000 other programs that could be cut, but do not cut this one."

The collective effect of this sacred cow attitude is that nothing gets cut. The sacred cows only seem to grow fatter and more numerous each year. This year, however, is different. At least the rhetoric of my colleagues suggests a new, more sober attitude. I am sure my colleagues will welcome the opportunity to support my forthcoming efforts to make overall percentage cuts in the various appropriations bills.

LET US VOTE NOW ON THE OIL IMPORT TAX

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MYERS of Indiana. Mr. Speaker, I could not help but comment on this. It

is an interesting list of people standing in line this morning to say, "Do not associate us with the tax." And I certainly think everyone in this body probably agrees with that. From what I witnessed this morning, we all have objected to the President's plan to increase oil prices by about 10 cents by the additional tax.

But one thing I do not understand. Why do we have to wait until Thursday to act on a bill to stop the tax? You, the majority party are running the Congress, you program, you schedule. Let us vote on it today. It seems to be unanimous. We could have brought it up under suspension of the rules, I guess. Everything else comes up that way. So why are we waiting until Thursday? Let us get some action. Let us quit talking about it. But typically we just talk about problems and never get down to what really helps the American people, and that is what the gentleman from Ohio spoke about, cutting expenditures, and maybe even cutting taxes. Why do we wait until Thursday? We are long on rhetoric and short on action. Let us quit talking and do something about it.

AMENDING SUBTITLE IV OF TITLE 49, UNITED STATES CODE, TO CODIFY RECENT LAW

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 3807) to amend subtitle IV of title 49, United States Code, to codify recent law and improve the Code without substantive change, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 8, strike out "an initial" and insert "a".

Page 1, line 11, strike out "initial decision becomes an action of the Commission" and insert "decision becomes effective".

Page 4, lines 14 and 15, strike out "those sections. Those sections" and insert "that section. That section".

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

INFANT FORMULA ACT OF 1980

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6940) to amend the Federal Food, Drug, and Cosmetic Act to strengthen the authority under that act to assure the safety and nutrition of infant formulas, as amended.

The Clerk read as follows:

H.R. 6940

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 "Infant Formula Act of 1980".

SEC. 2. Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding after section 411 the following new section:

"REQUIREMENTS FOR INFANT FORMULAS

"SEC. 412. (a)(1) An infant formula shall be deemed to be adulterated if (A) it does not provide nutrients in accordance with the table as set out in subsection (g) or as revised under paragraph (2), (B) it does not meet the requirements prescribed under paragraph (2)(C), or (C) the processing of the formula is not in compliance with applicable requirements prescribed under paragraph (2)(D).

"(2) The Secretary may by regulation—

"(A) revise the list of nutrients in the table in subsection (g),

"(B) revise the level for any nutrient listed in the table,

"(C) establish requirements for quality factors for nutrients listed in the table, and

"(D) establish such quality control procedures as the Secretary determines necessary to assure that an infant formula provides nutrients in accordance with subsection (a)(1)(A) and meets the requirements of subparagraph (C) and establish requirements respecting the retention of records of procedures required under this subparagraph.

"(b)(1) Not later than 90 days before the first processing of any infant formula for commercial or charitable distribution for human consumption, the manufacturer shall notify the Secretary whether (A) the formula provides nutrients in accordance with subsection (a)(1) and meets the applicable requirements prescribed under subsection (a)(2)(C), and (B) the processing of the formula will be carried out in accordance with the applicable requirements prescribed under subsection (a)(2)(D).

"(2) Before the first processing of any infant formula for commercial or charitable distribution for human consumption—

"(A) after a change in its formulation, or

"(B) after a change in its processing,

which the manufacturer reasonably determines may affect whether the formula is adulterated as determined under subsection (a)(1), the manufacturer shall notify the Secretary of such changes and that the formula provides nutrients in accordance with subsection (a)(1) and meets the applicable requirements prescribed under subsection (a)(2)(C) and that the processing of the formula will be carried out in accordance with the applicable requirements prescribed under subsection (a)(2)(D).

"(c)(1) If the manufacturer of an infant formula has knowledge which reasonably supports the conclusion that an infant formula which has been processed by the manufacturer and which has left an establishment subject to the control of the manufacturer—

"(A) may not be in compliance with the requirements of subsection (a)(1)(A), or

"(B)(i) may be otherwise adulterated or misbranded, and

"(ii) if so adulterated or misbranded presents a risk to human health,

the manufacturer shall promptly notify the Secretary of such noncompliance or risk to health.

"(2) For purposes of paragraph (1), the term 'knowledge' as applied to a manufacturer means (A) the actual knowledge that the manufacturer had, or (B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.

"(d)(1) If a recall of an infant formula is begun by a manufacturer, the recall shall be carried out in accordance with such requirements as the Secretary may prescribe under paragraph (2), and—

"(A) the Secretary shall, not later than the 15th day after the beginning of such recall and at least every 15 days thereafter until the recall is terminated, review the actions taken under the recall to determine whether the recall meets the requirements prescribed under paragraph (2); and

"(B) the manufacturer shall, not later than the 14th day after the beginning of such recall and at least every 14 days thereafter until the recall is terminated, report to the Secretary the actions taken to implement the recall.

"(2) The Secretary shall by regulation prescribe the scope and extent of recalls of infant formulas necessary and appropriate for the degree of risk to human health presented by the formula subject to the recall.

"(e)(1) Each manufacturer of an infant formula shall make and retain such records respecting the distribution of the infant formula through any establishment owned or operated by such manufacturer as may be necessary to effect and monitor recalls of the formula. No manufacturer shall be required under this subsection to retain any record respecting the distribution of an infant formula for a period of longer than 3 years from the date the record was made.

"(2) To the extent that the Secretary determines that records are not being made or maintained in accordance with paragraph (1), the Secretary may by regulation prescribe the records required to be made under paragraph (1) and requirements respecting their retention under such paragraph. Such regulations shall take effect on such date as the Secretary prescribes but not sooner than 180 days after the date of their promulgation, and they shall apply only with respect to distributions of infant formulas made after their effective date.

"(f)(1) Any infant formula which is represented and labeled for use by an infant—

"(A) which has an inborn error of metabolism or a low birth weight, or

"(B) which otherwise has an unusual medical or dietary problem,

is exempt from the requirements of subsections (a) and (b). The manufacturer of an infant formula provided an exemption under this paragraph shall, in the case of the exempt formula, be required to provide the notice required by subsection (c) only with respect to information described in paragraph (2) of such subsection.

"(2) The Secretary may by regulation establish terms and conditions for the exemption of an infant formula from the requirements of subsections (a) and (b). The con-

tinuation of an exemption of an infant formula under paragraph (1) shall be subject to compliance with applicable terms and conditions prescribed under this paragraph.

"(g) The table referred to in subsection (a)(1)(A) is as follows:

NUTRIENTS

"Nutrient	Minimum[1]	Maximum[1]
Protein (gm)	1.8	4.5.
Fat:		
Gm	3.3	6.0.
Percent cal	30.0	54.0
Essential fatty acids (linoleate):		
Percent cal	3.0	
Mg	300.0	
Vitamins:		
A(IU)	250.0 (75μg)[2]	750.0 (255μg).[2]
D (IU)	40.0	100.0.
K (mg)	4.0	
E (IU)	0.3 (with 0.7 IU/gm linoleic acid)	
C (ascorbic acid) (mg)	8.0	
B_1 (thiamine) (μg)	40.0	
B_2 (riboflavin) (μg)	60.0	
B_6 (pyridoxine) (μg)	35.0 (with 15μg/gm of protein in formula).	
B_{12} (μg)	0.15	
Niacin (μg)	250.0	
Folic acid (μg)	4.0	
Pantothenic acid (μg)	300.0	
Biotin (μg)	1.5[3]	
Choline (mg)	7.0[3]	
Inositol (mg)	4.0[3]	
Minerals:		
Calcium (mg)	50.0[4]	
Phosphorus (mg)	25.0[4]	
Magnesium (mg)	6.0	
Iron (mg)	0.15	
Iodine (μg)	5.0	
Zinc (mg)	0.5	
Copper (μg)	60.0	
Manganese (μg)	5.0	
Sodium (mg)	20.0 (6 mEq)[5]	60.0 (17 mEq).[5]
Potassium (mg)	80.0 (14 mEq)[5]	200.0 (34 mEq).[5]
Chloride (mg)	55.0 (11 mEq)[5]	150.0 (29 mEq).[5]

[1] Stated per 100 kilocalorie.
[2] Retinol equivalents.
[3] Required to be included in this amount only in formulas which are not milk-based.
[4] Calcium to phosphorus ratio must be no less than 1.1 nor more than 2.0".
[5] Milliequivalent for 670 kcal/liter of formula.

SEC. 3. Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(aa) The term 'infant formula' means a food which purports to be or is represented for special dietary use solely as a food for infants by reason of its simulation of human milk or its suitability as a complete or partial substitute for human milk.".

SEC. 4. Section 704(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(a)) is amended—

(1) in the first sentence, by inserting "(1)" before "For purposes" and by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(2) in the third sentence, by inserting "or by paragraph (3)" after "preceding sentence";

(3) in the sixth sentence, (A) by striking out "The provisions of the second sentence of this subsection" and inserting in lieu thereof the following:

"(2) The provisions of the second sentence of paragraph (1)",

and (B) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively; and

(4) by adding at the end the following:

"(3) An officer or employee making an inspection under paragraph (1) for purposes of enforcing the requirements of section 412 applicable to infant formulas shall be permitted, at all reasonable times, to have access to and to copy and verify any records—

"(A) bearing on whether the infant formula manufactured or held in the facility inspected meets the requirements of section 412, or

"(B) required to be maintained under section 412.".

SEC. 5. (a) Section 301 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following new paragraph:

"(s) The failure to provide the notice required by section 412(b) or 412(c), the failure to make the reports required by section 412(d)(1)(B), or the failure to meet the requirements prescribed under section 412(d)(2).".

(b) Section 301(e) of such Act is amended (1) by striking out "section 703" and inserting in lieu thereof "section 412 or 703", and (2) by striking out "section 505" and inserting in lieu thereof "section 412, 505".

(c) Section 301(j) of such Act is amended by inserting "412," before "505".

SEC. 6. Section 412 of the Federal Food, Drug, and Cosmetic Act (added by section 2) shall apply with respect to infant formulas manufactured on or after 90 days after the date of the enactment of this Act.

SEC. 7. The Secretary of Health and Human Services shall conduct a study to determine the long-term effect on infants of hypochloremic metabolic alkalosis resulting from infant formulas deficient in chloride. The Secretary shall report the results of such study to the Congress.

SEC. 8. (a) Section 503 of the Controlled Substances Act (21 U.S.C. 873) is amended by adding at the end the following new subsection:

"(c) The Attorney General shall annually (1) select the controlled substance (or controlled substances) contained in schedule II which the Attorney General, in his discretion, determines to have the highest rate of abuse, and (2) prepare and make available to regulatory, licensing, and law enforcement agencies of States descriptive and analytic reports on the actual distribution patterns in such States of each such controlled substance.".

(b) Section 203 of the Psychotropic Substances Act of 1978 (Public Law 95-633) is amended by striking out subsection (d).

(c) Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended—

(1) by striking out "except as provided in paragraphs (4) and (5) of this subsection" in the first sentence of subsection (b)(1)(B) and inserting in lieu thereof "except as provided in paragraphs (4), (5), and (6) of this subsection"; and

(2) by adding after paragraph (5) of subsection (b) the following new paragraph:

"(6) In the case of a violation of subsection (a) involving a quantity of marihuana exceeding 1,000 pounds, such person shall be sentenced to a term of imprisonment of not more than 15 years, and in addition, may be fined not more than $125,000. If any person commits such a violation after one or more prior convictions of him for an offense punishable under paragraph (1) of this paragraph, or for a felony under any other provision of title III, or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years, and in addition, may be fined not more than $250,000.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. WAXMAN) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with great pleasure that I present H.R. 6940, the Infant Formula Act of 1980, to the House of Representatives. H.R. 6940 is one of the most important health measures reported by the Interstate and Foreign Commerce Committee this year. It is a bill vitally important to the health of thousands of infants who each day depend upon infant formula as their sole source of nutrition.

The legislation is a popular measure. It was reported by unanimous voice vote of the Interstate and Foreign Commerce and is cosponsored by 22 members of the committee including Mr. GORE, Mr. MOTTL, Mr. CARTER, Mr. MURPHY, Mr. ECKHARDT, Mr. PREYER, Mr. SCHEUER, Mr. OTTINGER, Mr. WIRTH, Mr. SHARP, Mr. SANTINI, Mr. MAGUIRE, Mr. MARKEY, Mr. LUKEN, Mr. WALGREN, Ms. MIKULSKI, Mr. GRAMM, Mr. LELAND, Mr. SHELBY, Mr. MADIGAN, Mr. RINALDO, Mr. MARKS. Further, the legislation is endorsed by every major manufacturer of infant formula and I include a copy of an endorsement from the Infant Formula Council in the RECORD at this point.

The Infant Formula Council, recognizing the unique position of infant formulas in the food supply, endorses legislation being presented to the Interstate and Foreign Commerce Committee of the U.S. House of Representatives at its markup meeting of April 16, 1980. This legislative proposal (HR 6940 as amended) incorporates provisions from previously introduced bills, as well as input from the Food and Drug Administration, the infant formula industry, and other interested parties.

The Infant Formula Council shares the stated concern of the Members of the Committee and the FDA that the public's confidence in manufactured infant formula be reassured. The Council believes that the provisions of the legislation will help achieve that goal if passed into law.

The Council also wishes to express its appreciation to Rep. Henry Waxman, Chairman of the Subcommittee on Health and the Environment, Dr. Tim Lee Carter, the rank-

ing Republican, Rep. Phil Gramm, Rep. David Satterfield, and other Members of the Subcommittee, the Subcommittee staff, as well as Rep. Albert Gore and Rep. Ron Mottl of the full Committee, for their contribution to this legislation and their willingness to hear all points of view in order to develop a consensus on legislation regulating this vital product for infants.

Note: The Infant Council is the trade association for manufacturers of infant formula in the United States.

Mr. Speaker, the committee has received outstanding cooperation and technical assistance from the infant formula industry and the American Academy of Pediatrics in the development of this legislation. I want to take this opportunity to particularly commend the American Academy of Pediatrics and its Committee on Nutrition for their decadelong leadership in the development of quality standards for infant formula. The nutritional requirements contained in the legislation reflect the recommendations of the Academy.

Mr. Speaker, H.R. 6940 establishes uniform safety and nutritional standards for infant formulas. In addition, the legislation provides authority for the Secretary of the Department of Health and Human Services to establish quality control, recordkeeping, notification, and recall requirements necessary to insure that infant formulas are safe and will promote healthy growth. The legislation also provides authority for the Secretary to inspect records necessary to monitor and effect formula recalls and to determine compliance with formula quality standards.

Section 8 of the bill contains three important provisions which relate—not to infant formula—but to drug law enforcement. The provisions provide for extending existing reporting requirements for the PCP precursor piperidine, expanding technical assistance provided States to control retail diversion of dangerous drugs and increasing criminal penalties for trafficking in large quantities of marihuana. The provisions are essential to strengthening our drug law enforcement capability and were included in H.R. 6940 to insure swift Senate consideration and enactment.

The committee's amendment with respect to marihuana establishes an important and much needed distinction in law between trafficking violations involving large versus small quantities. Under current law, convictions for the sale of marihuana—be it 2 pounds or 2 tons—incur the same maximum 5-year prison sentence and/or $15,000 fine. The committee believes a maximum 5-year sentence is an inadequate deterrence to major trafficking operations which are reputed to participate in the smuggling of an estimated 15,000 to 20,000 tons of marihuana into the United States each year.

Section 8(c) of the bill raises the maximum penalty for marihuana convictions involving over 1,000 pounds to 15 years and/or a $125,000 fine. Penalties for convictions involving lesser amounts remain unchanged. Consistent with existing law, maximum penalties double in the case of a prior drug related conviction.

Mr. Speaker, law enforcement officials have testified repeatedly before the committee that the financial benefits of large-scale marihuana trafficking are so lucrative that current criminal sanctions are viewed as an acceptable cost of doing business.

The committee believes the continued, indeed widespread illegal distribution of marihuana in the United States poses potentially grave public health ramifications. The widespread use of marihuana in America today is due in large measure to the activities of covert, sophisticated trafficking networks. If drug law enforcement personnel are to have an impact on reducing supplies of this drug, they must have the capability to recommend imposition of prison sentences sufficient to disrupt major trafficking operations. The committee believes marihuana trafficking is a serious problem and one for which serious criminal sanctions should be imposed.

Mr. Speaker, the need for this legislation is clear. Last summer, Americans learned that two infant formula products—Neo-Mull-Soy and Cho-Free—had been marketed which were deficient in chloride, a life sustaining nutrient. Americans were shocked to later learn that 3 months after a recall of the products had begun, they could still be purchased in many regions of the country. Fortunately, no fatalities resulted, however, the revelations of this episode stunned the Nation. Although the overall safety record of the infant formula industry has been excellent, this tragic episode called attention to a serious deficiency in Federal food safety law. Public confidence in the safety of infant formula was seriously shaken.

In the months following the Neo-Mull-Soy and Cho-Free recalls, we learned that over 130 infants who consumed the formulas had contracted a relatively rare and potentially fatal illness known as hypochloremic metabolic alkalosis. The illness is characterized by an abnormally diminished level of chloride in the blood which causes a shift in the body's acid/base balance. Symptoms included loss of appetite, failure to gain weight, lethargy, and constipation. Pediatricians described the symptoms as "failure to thrive."

Parents demanded to know how such a serious event could have occurred. They wondered whether it could happen again in the future.

When I first learned about this episode, I was shocked to discover that there are no Federal statutes or regulations which require infant formulas to contain all nutrients recognized as essential. Federal regulations with respect to infant formula are currently limited to assurances that labels are accurate and that the formula is processed in sanitary facilities. The absence of more substantive requirements regarding formula content may have created a regulatory environment which permitted the marketing of the nutrient deficient formulas.

Mr. Speaker, perhaps more than any other food product, we expect infant formulas to be manufactured to exacting standards. Each day, tens of thousands of infants depend upon formula as their sole source of nutrition. As the growth of infants during the first few months of life often determines the pattern of growth and quality of health in adult life, formulas are critically important to the health of our country. Formulas are unique food products and the public rightfully expects a high standard from companies involved in this important industry.

The bill before us is the product of extensive research and deliberation. Two days of legislative hearings were conducted and the advice of the Food and Drug Administraton, American Academy of Pediatrics and the infant formula industry were actively solicited and incorporated into the committee bill.

Mr. Speaker, several Members are entitled to be singled out for their contribution to the development of this legislation. I would like to recognize and express personal thanks to Representatives ALBERT GORE, RONALD MOTTL, and Dr. TIM LEE CARTER, the ranking minority member of the Subcommittee on Health and the Environment. H.R. 6940 is very much a reflection of their thoughtful input.

Congressmen GORE and MOTTL, through their outstanding investigative work on the Commerce Subcommittee on Oversight and Investigations, brought to light the tragic circumstances that made evident the need for this legislation. After their outstanding review of existing law, they recommended to us the legislative approach embodied in this bill. They deserve and are entitled to the credit for initiating this legislation and the gratitude from all of us for their leadership in working constructively to keep the industry and the FDA alert to avoid what could be future harm to infants. Their work as part of the Oversight and Investigations Subcommittee reinforces my conviction that this crucial part of our legislative activities is as important, if not more important, than passing additional legislation—they looked to see if existing law was meeting our expectations. Their dedication, effort and thoughtfulness that went into this legislation are examples of the high achievements possible to Members truly committed to the public interest.

Mr. Speaker, parents must have confidence in the quality of formula upon which their children depend. They must be assured that formula contain all essential nutrients and that it has been adequately tested prior to marketing. The adoption of H.R. 6940 will restore public confidence in the safety and quality of infant formula and deserves every Member's support.

Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. GORE).

Mr. GORE. Mr. Speaker, I would like to begin by expressing my thanks to the distinguished chairman of the Subcom-

mittee on Health and the Environment, the gentleman from California (Mr. WAXMAN), and the ranking minority member, the gentleman from Kentucky (Mr. CARTER), whose district neighbors mine in Tennessee, and to my colleague, the gentleman from Ohio (Mr. MOTTL), who helped in the investigation that led to this legislation.

This bill has bipartisan support and it has many, many cosponsors, to whom I would also like to express thanks.

This legislation was passed unanimously in the Subcommittee on Health and the Environment and unanimously in the full Committee on Interstate and Foreign Commerce. It has the endorsement of the Infant Formula Council, the industry trade group, and I would hope that it would be passed overwhelmingly here today in the House of Representatives.

Since the end of World War II, Mr. Speaker, breast-feeding practices have been largely replaced by synthetic formulas. More than 60 percent of the infants in this country today are fed manufactured formulas, and these formulas often constitute the primary or sole source of nourishment for infants during their most critical period of development. We should, therefore, take every precaution to make sure that these formulas are safe and nutritious.

As members of the Subcommittee on Oversight and Investigations, Mr. MOTTL and I had a set of circumstances brought to our attention, largely as a result of investigative work by Lea Thompson, a television investigative reporter, that outlined a terrible tragedy in this country involving infants. The Syntex Corp. mass marketed two infant formulas without pretesting them after these formulas had been changed. They marketed the adulterated formulas for 15 months, during which time thousands of infants consumed these formulas. There was a serious chloride deficiency in these formulas that posed life-threatening hazards to newborn children. Approximately 130 children suffered serious growth and developmental impairments. The long-term effects on these children are as yet unknown.

There was a recall, but it was very ineffective. No one monitored the recall. Consequently, 3 months after the recall was initiated, at the time of the investigation by the Subcommittee on Oversight and Investigations, which I chaired, the products were still on the shelves.

We found in the investigative hearing that the current law is incredibly inadequate.

Under current law any individual or group of individuals can mass market virtually any concoction that they want to as the sole source of nourishment for infants in this country. This set of circumstances cannot be allowed to continue, in my judgment.

Under current law, no company is required to pretest an infant formula before it is mass marketed, and under current law, the Food and Drug Administration does not have the authority to insure nutritional quality or to guarantee that a prompt and effective recall of adulterated infant formulas occurs.

Now, this legislation would change existing laws in three key ways:

First, it would require that any infant formula marketed in the United States as the sole source of nutrition for normal babies include minimum amounts of all essential nutrients.

Second, it would require that infant formulas be tested before they are mass marketed in order to insure the nutritional adequacy of those formulas.

Third, this legislation would require the Food and Drug Administration to establish mandatory procedures for the recall of deficient formulas.

This legislation would not hamper or delay efforts to improve formulas unless the test results indicated that the nutritional quality of the formula was jeopardized. This bill does not preclude additions to or revisions of the formula ingredients as long as the proper nutritional quality is maintained. Infant formulas which are used by infants with special medical and dietary problems are not included in this bill. We make special provisions for those special formulas.

We found in our investigation, Mr. Speaker, that the tragedy involving Syntex was not unique. Another company also marketed chloride-deficient formulas last fall, and there have been other instances involving the marketing of hazardous formulas.

I am hopeful that this legislation will prevent such an occurrence from happening ever again.

In conclusion, I want to say that serving in the Congress sometimes is frustrating, as my colleagues know. It seems sometimes as if one works a long time for few achievements. But this is one of those occasions, Mr. Speaker, where I believe we can feel satisfaction and pride in passing a good bill. I am extremely proud of my colleagues on the Committee on Interstate and Foreign Commerce; and I hope that the other Members of the House of Representatives will join us in adopting this legislation and giving parents in America the assurance that infant formulas are safe and nutritious.

Mr. COLEMAN. Mr. Speaker, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Missouri.

Mr. COLEMAN. I thank the gentleman for yielding.

I would like to also recognize the gentleman's leadership role in this. As he knows, I was a cosponsor of his original legislation.

I do have a question for the gentleman, and that is, is the FDA given the authority to premarket test these formulas before they actually hit the market at all?

Mr. GORE. The FDA is given the right to review the test data compiled by the company. The burden is placed in this legislation on the company to perform the test to insure that it meets all the standards. They have to notify the FDA that that testing has been performed. At that point, the FDA has the right to review the test results, and if they have some reason to believe that the tests were inadequate, then they can step in and require further action of the company.

Mr. COLEMAN. If the gentleman will yield further, can the gentleman give us assurance today that in fact there is going to be some sort of oversight by the FDA on the infant formula even though the FDA will not have the authority themselves to conduct these tests, they will have access to the test. They can go into the scientific laboratory. They can go with the scientist, and they can in fact stand right next to him if they want to under this law if we pass it?

Mr. GORE. That is correct. This legislation contains new provisions allowing the FDA access to information such as that described, including the test results on these formulas, and it would give them that power.

Mr. COLEMAN. It is my understanding that some of the problems that came to our attention were the result of changes in a formula already on the market. Under this bill, which the gentleman is asking us to support today, the FDA will have the opportunity to review these changes in the actual ingredients in a formula prior to actually being sold over the counter.

□ 1300

Mr. GORE. That is correct. Now the initial determination of what kind of change triggers the testing requirement, the burden of making that decision will be on the company. But, again, that decision is reviewable by the FDA.

Mr. COLEMAN. I thank the gentleman and hope he will continue to monitor this subject matter and if for some reason there is a loophole in here that he does not know about or no one has seen that we can come back and make sure that we are not going to have any other future examples of what has been a very catastrophic thing to a number of families, as the gentleman well knows. I thank the gentleman.

Mr. GORE. I thank my colleague for his comments and I appreciate his cosponsorship and great assistance in pushing this legislation.

Let me say also that I want to give my colleagues the assurance as one member of the Oversight and Investigation Subcommittee that I intend to remain intensely interested in the application of this new law if my colleagues see fit to support it today, and I hope they will. We do intend on the Interstate and Foreign Commerce Committee to look at this area very closely in the future.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the infant formula bill. This legislation would help safeguard the early growth and development of millions of our youngsters who rely on infant formula as their primary source of nutrition in their early months of life. This measure would also help address the concern that many parents have about the quality and safety of infant formulas.

I am pleased to commend the chairman of the subcommittee, Mr. WAXMAN, and the gentleman from Tennessee, my neighbor, Mr. GORE, and another neighbor, the gentleman from the State of Ohio, Mr. MOTTL, who have all worked long and hard on this legislation.

The precipitating factor for this legislation was that 100 babies nationwide developed a condition known as metabolic alkalosis, which caused them to fail to thrive. Their condition was traced to having been fed a formula which, it was later determined, contained an insufficient amount of chloride.

More than 10 million cans of this formula were produced in the first 6 months of 1979, and to this date we do not know precisely how many babies were affected by this deficient product. Months after the manufacturers initiated a recall, cans of it were still found on shelves of stores around the country.

The legislation we are considering is the result of extensive hearings and thorough investigation. Last fall the Committee on Interstate and Foreign Commerce's Oversight and Investigation Subcommittee held hearings. The gentleman from Tennessee (Mr. GORE) and the gentleman from Ohio (Mr. MOTTL) serve as members of that subcommittee. Then the Subcommittee on Health and the Environment held hearings at which representatives of the Food and Drug Administration, the infant formula manufacturers, and the medical community testified. The members of the subcommittee were glad to have the benefit of their views on this legislation, which now enjoys general acceptance of all major parties concerned.

Under present law the FDA has authority only to assure that the formulas are produced under sanitary conditions and are properly labeled.

This bill would go a long way toward assuring that infant formulae meet accepted nutritional standards and that good manufacturing practices are followed in their production.

The legislation provides the FDA with enough flexibility to adjust nutritional standards for formulas so they comply with the latest scientific knowledge and allow for variations for infants with special dietary needs such as phenylketonuria, called in common parlance PKU.

In addition, it will allow the FDA to more closely monitor recalls of formula and will provide for a long-term study of the infants who suffer from taking the chloride deficient formula. Actually, we have known of the necessity of chlorides for many years, and it seems passing strange that sufficient chlorides should not have been included in the formula up to this time.

Years ago when our settlers came to this country they found that they needed salt very badly and salt was an expensive item. As my colleagues know, salt itself is really sodium chloride, NaCl, and when it is put into a formula it separates into sodium and chloride, which is necessary to nutrition. Our early settlers found then that if they did not have salt their children failed to thrive. Again, I think the companies which manufactured this product deficient in chloride made a very, very serious mistake.

This legislation requires that the chlorides, as well as every other essential element be included in infant formulas. The American Academy of Pediatrics will be consulted regularly as to the sufficiency of the proteins, vitamins, and minerals which are included in the formulas.

Mr. Speaker, today there is an amendment to this bill which would increase the penalties for persons trafficking in marihuana in quantities of over 1,000 pounds. Mr. Speaker, in 1970, I was a member of the Commerce Committee when it passed the Controlled Substances Act. Unfortunately, we did not make the penalties for marihuana as strict as they should have been.

In the past few years the sale of marihuana has become a big business. It is said that planes come into our country and dump tons and tons of marihuana. In order to receive pay for the marihuana delivered, the traffickers' money is weighed, not counted, to pay for the marihuana.

The people who may be caught and taken to court as a result of the sale of marihuana or having possession of it are usually let out on bail and, because the money they make from the sale of marihuana is so great, they skip bail. They make hundreds of thousands of dollars on each delivery. So it was thought necessary to increase the penalty at this time to 15 years for those possessing 1,000 pounds of marihuana for sale, and to fine those people no less than $125,000 for that offense. Also if the accused were a second offender, then he would be fined $250,000 and he could be sent to the penitentiary for as long as 30 years.

In my opinion, Mr. Speaker, this legislation is necessary today to stop this monopoly, this wealthy group of people who are violating our laws and bringing marihuana into this country. We must take action now to halt the increasing threat of marihuana trafficking to our society.

Mr. Speaker, young adulthood, from age 18 to 25, represents the peak period for marihuana use. Three out of five in that age group have reported having ever used marihuana. Among children between ages 12 and 13, 8 percent have used marihuana, a figure which climbs to 29 percent for 14- and 15-year-olds and to 47 percent for those ages 16 and 17. These percentages have all significantly increased in the last 3 years. Clearly, we are faced with an epidemic of marihuana use among our young people.

There are significant health risks associated with marihuana use. When marihuana is smoked, the ability to recall material learned while "high" is typically impaired; thus, use of marihuana among schoolage children is especially troublesome. There is good evidence that marihuana use at typical social levels definitely impairs driving ability and related skills. In limited surveys, from 60 to 80 percent of marihuana users questioned indicated that they sometimes drive while high. Marihuana smokers are overrepresented in fatal accidents and the rate is increasing. Marihuana has been implicated in early research as a possible cause of lung cancer and other serious pulmonary complications. Some researchers have found decreased levels of testosterone among male marihuana smokers, as well as abnormalities in sperm count. Marihuana may cause abnormalities in cell metabolism. Adding delta-9-THC—marihuana's active ingredient—to various types of human and animal cell cultures has been found to inhibit DNA, RNA, and protein synthesis.

Marihuana trafficking helps support other organized criminal activity. The National Narcotics Intelligence Consumers Committee estimates that marihuana accounted for approximately $15 to $23 billion in sales in 1978—an estimated 10,000 to 15,000 tons of marihuana were smuggled into the United States in that year. This vast amount of money helps to support other organized criminal activities.

The marihuana amendment is aimed at the largest traffickers.

The marihuana trafficking amendment only affects those trafficking in more than 1,000 pounds of marihuana—an amount worth approximately $250,000—using a conservative estimate. The amendment does not affect a small-time seller of the drug.

Present marihuana penalties are too lenient when existing penalties are compared to the possible gains. Administrator Bensinger of the Drug Enforcement Administration told the subcommittee that most marihuana traffickers serve less than 3 years. Criminal organizations trafficking in large amounts of marihuana are reaping literally millions of dollars from their criminal activities. For this reason, these smugglers regard the short prison term simply as a cost of doing business. In other words, existing criminal penalties for marihuana trafficking set up a revolving door for multimillionaire traffickers. The marihuana trafficking amendment will insure that these people are sent to prison long enough to get them out of the business. Most importantly it will make the penalties commensurate with the possible gains.

Marihuana traffickers are literally "rolling in money." DEA has observed cases where the traffickers weigh the money which results from their crimes instead of counting it. The State of Florida—the center of most trafficking activities—has more $100 bills in circulation than any other State. Moreover, the Federal Reserve has noted that there is more cash in Florida than can be accounted for by normal business.

For those reasons, Mr. Speaker, I think it is extremely necessary we pass this legislation.

There is one other thing in this bill. This provision extends our oversight of the chemical piperidine from which the drug phencyclidine or PCP is made. I think it is very important that we continue to require reporting by piperidine manufacturers and distributors so that we can monitor and prosecute those who illicitly manufacture PCP. PCP poses a significant threat to the emotional

well-being of our youngsters, a greater threat than LSD.

□ 1310

I think this is good legislation, Mr. Speaker, and I strongly support it. I reserve the remainder of my time.

Mr. WAXMAN. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. MOTTL).

Mr. MOTTL. Mr. Speaker, today we are considering H.R. 6940—the Infant Formula Act of 1980.

This legislation will extend protection to one of our Nation's most valuable national resources, our infants, who are totally dependent on us for their safety and well-being.

H.R. 6940 will insure thousands of parents that the infant formula and baby food they feed their children will be safe and nutritious. There currently are no such guarantees.

Last summer, the confidence of thousands of parents in the safety and quality of infant formula was shaken by news that two formulas had been marketed without a vital salt derivative. More than 130 infants suffered serious illnesses as a result.

Our thanks should go to Lea Thompson of WRC–TV who exhibited television journalism at its best when she broke the story of the deficient formulas and the subsequent recall foul-up.

Once the deficient formulas were discovered, the Food and Drug Administration relied on a voluntary recall to get the formulas off the shelves. A spot check by the FDA nearly 3 months after the voluntary recall began, showed some of the dangerous formula was still being sold.

An episode like this should cause us all grave concern. If a product is offered for sale as a safe and nutritious food for infants, then the public must know and have confidence that it is indeed safe and nutritious.

This Chamber also owes special thanks to our colleagues AL GORE, Dr. TIM LEE CARTER, and HENRY WAXMAN, who worked long and hard with me in finalizing this legislation.

In its investigation of the infant formula tragedy, the Oversight and Health Subcommittees learned that there are no quality control or testing requirements for infant formulas and no guidelines for the recall of deficient formulas.

H.R. 6940 would remedy those problems. The three major provisions of the bill would:

First, require that an infant formula being marketed as the sole source of nutrition for normal infants include minimum amounts of all essential nutrients;

Second, require that formulas be tested to insure nutritional adequacy before they are mass marketed;

Third, require the Food and Drug Administration to establish mandatory procedures for the recall of deficient formulas.

Another important aspect of H.R. 6940 is a provision for an on-going study to determine the long-range effects on any infants made ill by deficient formulas.

We have an opportunity to correct a grievous wrong and we can do it at no additional cost to the taxpayers.

Mr. Speaker, H.R. 6940 is concerned with human lives at their most vulnerable stage. We are talking about food that may be the sole source of nourishment for infants.

If we will not look after their safety, who will? I submit that this legislation will go a long way in correcting a serious problem.

Mr. CARTER. Mr. Speaker, will the distinguished gentleman yield?

Mr. MOTTL. Certainly, I yield to the distinguished gentleman from Kentucky.

Mr. CARTER. I thank the distinguished gentleman for yielding. Again I want to commend the distinguished gentleman from Ohio (Mr. MOTTL) and the distinguished gentleman from Tennessee (Mr. GORE) for their leadership on the Oversight Committee. I also want to thank my chairman, the gentleman from California (Mr. WAXMAN) for his assistance. Really, without the investigations conducted by the gentleman from Ohio (Mr. MOTTL) and the gentleman from Tennessee (Mr. GORE) this might not have been brought to our attention. Again I want to thank the gentleman, and I think the Nation thanks the gentleman for his help.

Mr. MOTTL. I thank the gentleman from Kentucky (Mr. CARTER) for those very kind remarks. They are most appreciated.

Mr. CARTER. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for yielding this time for the purpose of explaining something about the marihuana trafficking penalty provision that is included in this bill. It is, indeed, a nongermane amendment, and we take it up under suspension of the rules in order for that not to be an impediment to its passage, I think. Perhaps it is my lot in life to be the kind of legislator who finds some problem with the most popular types of bills. Indeed, if one of the world's most beautiful women walked down the hall, I might be the one to notice the bruise on her ankle. But we have here a very popular bill with a provision added to it that does need serious consideration.

Dr. CARTER has mentioned the problem that exists in the current law whereby the fines applicable to trafficking in large amounts of marihuana really are not adequate to discourage trafficking in marihuana. There are large, indeed huge amounts of money which change hands in the commerce in marihuana. The Committee on the Judiciary is currently considering the codification of the Federal criminal laws, and in the process there will be proposed a very great increase in the penalties and the fines applicable to trafficking in large amounts of marihuana. They would be higher than the fines proposed in this bill. That is, initially trafficking in over 1,000 pounds of marihuana would carry a fine of up to a quarter million dollars, $250,000, which is just double what is proposed here for a first offense. In the case of an organization, where organizational criminal liability may be established, and, indeed, in many marihuana trafficking situations we hope that that will be possible to establish, fines up to $1 million may be applied. Indeed, that is the kind of marihuana trafficking we have to get at the most.

I would suggest to the Members that this may not be the best way in which to legislate concerning the problem at hand, but it is better than waiting the 3 years until the criminal code, if it is enacted, becomes applicable.

There is one other aspect; and I am not objecting to the passage of this bill with this amendment in it—and it is an improvement over the current condition of the law, at least. I would just like to have us understand and be aware that we are not calling it quits here. This is not the end of the line. There is a need for a somewhat more thorough treatment of the subject. But I would like to express one more concern about the bill, and that is the provision in section 8(a) that starts on line 19 on page 10 of the bill which says:

"(c) The Attorney General shall annually (1) select the controlled substance (or controlled substances) contained in schedule II which the Attorney General, in his discretion, determines to have the highest rate of abuse, and (2) prepare and make available to regulatory, licensing, and law enforcement agencies of States descriptive and analytic reports on the actual distribution patterns in such States of each such controlled substance.".

The Freedom of Information Act would make that information available to anyone in the hands of the Department of Justice, even if it did not leak out from State sources. I am disturbed about that provision in the bill. I would hope that the other body does not include that in the bill as it is enacted. But I would invite comments from either of the gentlemen on either side of the aisle concerning that provision. I just would hate to see us, through our law-enforcement agencies, make available to those who traffic in controlled substances information that would be useful in changing their patterns of operation so as to avoid detection and arrest or conviction.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding. I want to tell the gentleman I appreciate the comments he has to make. We are aware of the fine work being done by the Committee on the Judiciary in revising the criminal codes, and we look forward to the report from that committee which will encompass this matter. I am pleased that the gentleman is supporting us in increasing criminal penalties for the trafficking of large quantities of marihuana. The penalties will go into effect

immediately, and I think these penalties should be increased to take the profit and incentive out of trafficking in large quantities of marihuana. I think the policy of this provision is consistent with what the Committee on the Judiciary is going to come up with.

□ 1320

We want this on the books now and later we can review the recommendations of the Committee on the Judiciary in the Criminal Code reform bill.

Mr. KINDNESS. We are heading in the same direction but this bill will get us further down the trail sooner.

Mr. WAXMAN. That is correct.

The gentleman raised a question about subsection 8(a) of the bill. I would be pleased to discuss this further as we move along. That section was offered and adopted in the Subcommittee on Health and the Environment by unanimous voice vote. The purpose of the provision is to assist States in controlling retail diversion of prescription drugs. Data used to compile the required analytic and descriptive reports is currently available through the Drug Enforcement Administration's Automation of Reports and Consolidated Orders System (ARCOS). This provision requires that this information be provided States in a form to effectively aid in the targeting of law enforcement, licensing, and regulatory resources on the problem of retail diversion.

We had testimony before the subcommittee that several States have been using ARCOS data in this manner very successfully. We thought these efforts ought to be encouraged in more States and that is why this section was offered.

Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. EVANS).

Mr. EVANS of Georgia. Mr. Speaker, I rise in support of H.R. 6940, the "Infant Formula Act of 1980." In particular, I want to express my strong support for section 8(c) of the bill. That provision establishes new penalties for persons who are convicted of trafficking in over 1,000 pounds of marihuana. Under the bill, such persons would be subject to a maximum prison term of 15 years and in addition could be fined up to $125,000. These penalties could be doubled for persons with prior felony drug convictions. Current law authorizes maximum penalties of only 5 years and $15,000 for first-time offenders, regardless of the amount of marihuana involved.

As a member of the Select Committee on Narcotics Abuse and Control, I have become increasingly concerned about the vast amounts of marihuana smuggled into the United States every year. Even though our Federal, State, and local law enforcement agencies seized more than 4.3 million pounds of marihuana in 1979, the illicit traffic in marihuana continues to flourish. The trade in marihuana from Colombia to the United States has been estimated to exceed $6.5 billion annually, many times the amount of Colombia's largest export commodity, coffee.

Much of the illicit marihuana entering the United States comes in through Florida. As a result of intensified interdiction efforts in south Florida, however, major traffickers have expanded their drug operations into Georgia. With its 100 miles of coastline and a tidal waterway which is 100 miles wide and 2,300 miles long, Georgia presents an attractive target for traffickers. Earlier this year, the select committee held hearings in Macon and Glynco to examine the situation in Georgia. We found that our Federal, State, and local law enforcement agencies simply do not have the resources to combat effectively the flood of illicit marihuana coming into the State.

The vast influx of marihuana undoubtedly has contributed to the alarming increase in marihuana abuse in the United States, particularly among our young people. Recent data collected for the National Institute on Drug Abuse show that more than 1 out of every 10 high school seniors in 1979 used marihuana on a daily basis, an increase of more than 70 percent from the number of daily users in 1975. Approximately 60 percent of all high school seniors in 1979 had tried marihuana and 37 percent are current users. The age at which young people start using drugs is also declining. These trends are especially disturbing in light of the mounting accumulation of evidence that marihuana poses serious risks to the physical, intellectual, and social development of young abusers and also because the THC content of marihuana has increased significantly in recent years.

The current 5 years/$15,000 maximum penalties for trafficking in marihuana do not effectively immobilize traffickers or deter them from plying their trade. Sentences handed out seldom reach the maximum allowed, and prisoners generally serve less than half of their sentences. Because the profits from large-scale marihuana trafficking are so immense, traffickers view such light sentences merely as a "cost of doing business."

Last year, I introduced legislation, H.R. 3721, that would establish a mandatory minimum sentence of 10 years and a maximum fine of $100,000 for smuggling 100 pounds or more of marihuana. My bill also would prohibit suspended sentences, probation, parole and sentencing under the Youth Corrections Act. Although H.R. 6940 does not go as far as my proposal, I believe it is a positive step and will enhance the ability of our law enforcement agencies to disrupt the tide of marihuana flooding our children's schools and playgrounds. I urge my colleagues to support the adoption of this resolution.

Mr. CARTER. Mr. Speaker, I yield to the distinguished gentleman from West Virginia (Mr. STAGGERS), the chairman of the Committee on Interstate and Foreign Commerce.

Mr. STAGGERS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this bill whole-heartedly. Though it is a small piece of legislation, I think it is one of the really and truly important bills to come before the House in this Congress. It is critically important to the future health of our children. I would like to take this opportunity to commend the infant formula industry and the American Academy of Pediatrics for their cooperation with the committee in the development of this bill. They were extremely helpful and the legislation is stronger because of their participation.

Mr. Speaker, I would like to commend all members of the committee for the work done on the bill. However, I would especially like to commend the chairman of the Subcommittee on Health, the gentleman from California (Mr. WAXMAN) and the ranking minority member, the gentleman from Kentucky (Mr. CARTER). The gentleman from Kentucky is leaving Congress this year. He will leave his imprint upon the health of America, so deeply for the better, for having been here and passed through this Congress. The gentleman is a great man and a strong advocate for improving the health of our Nation. The Nation will be stronger and better for the gentleman's having served in the Congress of the United States.

Mr. Speaker, I would also like to commend the staffs for the work they have done on the bill in getting it before the committee.

Mr. Speaker, I thank the gentleman for yielding to me.

Mr. CARTER. Mr. Speaker, certainly I want to thank the distinguished gentleman from West Virginia (Mr. STAGGERS) for his cooperation over the past many years, for the friendship he has shown me and the help he has given to all of us in this great country of ours. The gentleman has left a great record here.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I want to take this brief time to pay my respects and give thanks to the two members of my subcommittee who brought this to my attention and worked so hard to get it to the attention of the Congress, the gentleman from Ohio (Mr. MOTTL) and the gentleman from Tennessee (Mr. GORE). Had it not been for their strong interest in this matter, I feel the matter might never have been solved in such an excellent way as they have found to solve it under the leadership of the gentleman from California (Mr. WAXMAN), the chairman of the Subcommittee on Health, and the ranking minority member, the gentleman from Kentucky (Mr. CARTER).

Mr. Speaker, I want to pay high tribute to all four of those gentlemen for their work on this legislation.

Mr. CARTER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. PEYSER).

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 6940 the Infant Formula Act of 1980. This is critically important legislation which seeks to improve the quality of ingredients which are fed to infants in their daily formulas.

This legislation comes in response to a shocking incident which took place last summer when some 130 infants who had consumed a formula which was seriously deficient in the life sustaining nutrient chloride fell dangerously ill from a potentially lethal and rare chemical imbalance in the blood.

Following this an investigation was conducted by the Commerce Committee and it revealed serious shortcomings in the processes by which infant formulas are manufactured. There is an absence of quality control which can result in improper levels of ingredients being put into formulas. Further the investigation revealed that the Food and Drug Administration, despite a clear position from the American Academy of Pediatrics did not include chloride as a vital nutrient in formulas. The academy had stated explicitly that chloride was an essential ingredient.

H.R. 6940 is a swift and proper response to this problem. The legislation establishes clear and universal standards on what ingredients should be included in infant formulas and just as importantly requires an infant formula manufacturer to notify the Department of Health and Human Services—prior to marketing that its formula is in compliance with the ingredient standards and quality control procedures. Further the legislation provides for certain recall procedures in the event of improper infant formulas being marketed and distributed.

It is wise for us to act in the manner we are today. Our infant children must not encounter peril in their daily feeding. We must be extremely careful to protect the lives of the very young. Our Nation is slowly seeing a positive move away from the high infant mortality rates of the past two decades. We do not want to regress. It seems incredulous to me that we have no effective standards to guarantee the nutritious content of infant formulas but worse yet—we do not even have standards to insure they are safe for consumption. I support this legislation and urge its immediate approval.

Finally, as an ex-officio member of the House Select Committee on Narcotics, I wish to add my support to the other provisions of this legislation which deal with drug abuse prevention. I endorse the indefinite extension of reporting requirements for piperidine—a chemical essential to the manufacture of PCP. Finally, I believe the provisions in this bill increasing the penalties for trafficking in large quantities of marihuana are sound and important to our efforts to curb the spread of drug abuse. I would prefer to see this same approach applied to other drugs as well. I recently participated in hearings in my home city of New York on the alarming increase in heroin addiction in the New York area. Clearly addiction and trafficking are interrelated and one has to assume that if penalties for trafficking are increased it will serve as a deterrent. H.R. 6940 makes an important first step in the right direction.

Mr. PEYSER. Mr. Speaker, I thank the gentleman from New York.

Mr. Speaker, I want to join with the many others who have spoken in the House in congratulating both the subcommittee chairman and the ranking member who have made such a great contribution in this particular legislation.

Mr. Speaker, I could not help but think while discussing this on the floor today, it was just a few years ago that Congress rushed to pass a bill called "save the mustangs" and we rushed it through very rapidly and in a period of about 3 weeks from start to finish we enacted and signed that bill into law.

I would like to think we are going to move today with the same rapidity on a "save the babies" bill because basically that is what we are talking about. I can think of nothing that Congress could direct its attention to, both the House and the Senate, than this type of legislation.

Mr. Speaker, as a cosponsor of this bill I congratulate all the gentlemen involved and yield back the balance of my time.

● Mr. DRINAN. Mr. Speaker, I rise to speak on H.R. 6940, the infant formula bill because of the manner in which it is being presented to the House today. Attached to this bill is a rider to amend the Controlled Substances Act which is nongermane to the subject of the legislation.

The nongermane amendment to H.R. 6940 as reported by the Commerce Committee changes the penalties for possession and trafficking in large quantities of marihuana. This very important matter is under consideration this week by the Judiciary Committee as part of the Criminal Code Revision.

For example, this amendment would make the maximum fine for a first offense $125,000. But under the sentencing provisions of the Criminal Code, the maximum fine for a first offense would be a quarter million dollars for an individual and $1 million for an organization. Considering the large sums of money often involved in the trafficking offenses, this amendment does not go far enough to deter or punish the financiers involved in marihuana trafficking.

The approach taken by the Criminal Code Revision, currently pending in the Judiciary Committee, is supported by the administration. Peter Bensinger, the Administrator of the Drug Enforcement Administration, in his testimony before the Judiciary Committee on March 19, 1980, endorsed the proposal in the Criminal Code to raise the penalty for large scale marihuana trafficking to a class C felony, the third most serious level of Federal crime, and just below trafficking in heroin.

A major purpose of the Criminal Code approach is to end the hodge-podge approach and inconsistent approach to criminal law that is followed by this nongermane amendment.●

□ 1330

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN) that the House suspend the rules and pass the bill. H.R. 6940, as amended.

Mr. WAXMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

CHAPTER 42 SECOND TIER TAX CORRECTION ACT OF 1980

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5391) to amend chapter 42 of the Internal Revenue Code of 1954 with respect to the determination of second tier taxes, as amended.

The Clerk read as follows:

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 "Chapter 42 Second Tier Tax Correction Act of 1980".

(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.

SEC. 2. DATE FOR DETERMINING AMOUNT OF SECOND TIER TAXES.

(a) SUBSTITUTION OF TAXABLE PERIOD FOR CORRECTION PERIOD.—The following provisions are each amended by striking out "correction period" and inserting in lieu thereof "taxable period":

(1) Section 4941(b)(1) (relating to additional taxes on self-dealer).

(2) Section 4941(e)(2)(B) (defining amount involved).

(3) Section 4942(b) (relating to additional tax on failure to distribute income).

(4) Section 4943(b) (relating to additional tax on excess business holdings).

(5) Section 4944(b)(1) (relating to additional taxes on investments which jeopardizes charitable purpose).

(6) Section 4945(b)(1) (relating to additional taxes on taxable expenditures).

(7) Section 4951(b)(1) (relating to additional taxes on self-dealer).

(8) Section 4951(e)(2)(B) (defining amount involved).

(9) Section 4952(b)(1) (relating to additional taxes on taxable expenditures).

(10) Section 4971(b) (relating to additional tax on failure to meet minimum funding standards).

(11) Section 4975(b) (relating to additional taxes on disqualified persons).

(12) Section 4975(f)(4)(B) (defining amount involved).

(b) DEFINITION OF TAXABLE PERIOD.—

(1) Paragraph (1) of section 4941(e) (defining taxable period) is amended to read as follows:

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212.

"(B) the date on which the tax imposed by subsection (a)(1) is assessed, or

"(C) the date on which correction of the act of self-dealing is completed."

(2) Paragraph (1) of section 4942(j) is amended to read as follows:

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to the undistributed income for any taxable year, the period beginning with the first day of the taxable year and ending on the earlier of—

"(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, or

"(B) the date on which the tax imposed by subsection (a) is assessed."

(3) Paragraph (2) of section 4943(d) is amended to read as follows:

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess business holdings of a private foundation in a business enterprise, the period beginning on the first day on which there are excess holdings and ending on the earlier of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212 in respect of such holdings, or

"(B) the date on which the tax imposed by subsection (a) in respect of such holdings is assessed."

(4) Paragraph (1) of section 4944(e) is amended to read as follows:

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any investment which jeopardizes the carrying out of exempt purposes, the period beginning with the date on which the amount is so invested and ending on the earliest of—

"(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212,

"(B) the date on which the tax imposed by subsection (a)(1) is assessed, or

"(C) the date on which the amount so invested is removed from jeopardy."

(5) Paragraph (2) of section 4945(i) is amended to read as follows:

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any taxable expenditure, the period beginning with the date on which the taxable expenditure occurs and ending on the earlier of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212, or

"(B) the date on which the tax imposed by subsection (a)(1) is assessed."

(6) Paragraph (1) of section 4951(e) is amended to read as follows:

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212,

"(B) the date on which the tax imposed by subsection (a)(1) is assessed, or

"(C) the date on which correction of the act of self-dealing is completed."

(7) Paragraph (2) of section 4952(e) is amended to read as follows:

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any taxable expenditure, the period beginning with the date on which the taxable expenditure occurs and ending on the earlier of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212, or

"(B) the date on which the tax imposed by subsection (a)(1) is assessed."

(8) Paragraph (3) of section 4971(c) is amended to read as follows:

"(3) TAXABLE PERIOD.—The term 'taxable period' means, with respect to an accumulated funding deficiency, the period beginning with the end of the plan year in which there is an accumulated funding deficiency and ending on the earlier of—

"(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a), or

"(B) the date on which the tax imposed by subsection (a) is assessed."

(9) Paragraph (2) of section 4975(f) is amended to read as follows:

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any prohibited transaction, the period beginning with the date on which the prohibited transaction occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212,

"(B) the date on which the tax imposed by subsection (a) is assessed, or

"(C) the date on which correction of the prohibited transaction is completed."

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (e) of section 4941 is amended by striking out paragraph (4).

(2) Subsection (j) of section 4942 is amended—

(A) by striking out paragraph (2),

(B) by striking out "paragraph (5)" in paragraph (3)(B)(i) and inserting in lieu thereof "paragraph (4)",

(C) by redesignating paragraph (4) as paragraph (2), and

(D) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(3) Subsection (d) of section 4943 is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(4) Subsection (e) of section 4944 is amended by striking out paragraph (3).

(5) Subsection (e) of section 4951 is amended striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(6) Subsection (f) of section 4975 is amended by striking out paragraph (6).

(d) CLERICAL AMENDMENTS.—

(1) Clause (ii) of section 4942(g)(2)(C) is amended by striking out "the initial correction period provided in subsection (j)(2)" and inserting in lieu thereof "the correction period (as defined in section 4962(e))".

(2) Subparagraph (A) of section 4943(d)(3) (as redesignated by subsection (c)) is amended by striking out "4942(j)(5)" and inserting in lieu thereof "4942(j)(4)".

(3) Subsection (e) of section 6213 (relating to suspension of filing period for certain excise taxes) is amended by striking out "section 4941(e)(4)" and all that follows through the end of such subsection and inserting in lieu thereof "section 4962(e)."

(4) Subsection (g) of section 6503 (relating to suspension of running of period of limitation pending correction) is amended by striking out "section 4941(e)(4)" and all that follows through the end of such subsection and inserting in lieu thereof "section 4962(e)."

(5) Section 6503 is amended by redesignating subsection (j) as subsection (i).

(6) The amendments made by sections 1203(h)(1) and 1601(f)(2) of the Tax Reform Act of 1976, and the amendment made by section 362(d)(5) of the Revenue Act of 1978, shall be deemed to be amendments to section 6503(i) of the Internal Revenue Code of 1954 (as redesignated by paragraph (5)).

SEC. 3. TAX COURT TO DETERMINE WHETHER TAXABLE EVENT HAS BEEN CORRECTED.

Subsection (e) of section 6214 (relating to determinations by Tax Court) is amended by adding at the end thereof the following new sentence: "The Tax Court, in redetermining a deficiency of any second tier tax (as defined in section 4962(b)), shall make a determination with respect to whether the taxable event has been corrected."

SEC. 4. ABATEMENT OF TAX WHERE THERE IS CORRECTION DURING CORRECTION PERIOD.

(a) IN GENERAL.—Chapter 42 is amended by adding at the end thereof the following new subchapter:

"Subchapter C—Abatement of Second Tier Taxes Where There Is Correction During Correction Period

"Sec. 4961. Abatement of second tier taxes where there is correction.

"Sec. 4962. Definitions.

"SEC. 4961. ABATEMENT OF SECOND TIER TAXES WHERE THERE IS CORRECTION.

"(a) GENERAL RULE.—If any taxable event is corrected during the correction period for such event, then any second tier tax imposed with respect to such event (including interest, additions to the tax, and additional amounts) shall not be assessed, and if assessed the assessment shall be abated, and if collected shall be credited or refunded as an overpayment.

"(b) SUPPLEMENTAL PROCEEDING.—If the determination by a court that the taxpayer is liable for a second tier tax has become final, such court shall have jurisdiction to conduct any necessary supplemental proceeding to determine whether the taxable event was corrected during the correction period. Such a supplemental proceeding may be begun only during the period which ends on the 90th day after the last day of the correction period. Where such a supplemental proceeding has begun, the reference in the second sentence of section 6213(a) to a final decision of the Tax Court shall be treated as including a final decision in such supplemental proceeding.

"(c) SUSPENSION OF PERIOD OF COLLECTION FOR SECOND TIER TAX.—

"(1) PROCEEDING IN DISTRICT COURT OR COURT OF CLAIMS.—If, not later than 90 days after the day on which the second tier tax is assessed, the first tier tax is paid in full and a claim for refund of the amount so paid is filed, no levy or proceeding in court for the collection of the second tier tax shall be made, begun, or prosecuted until a final resolution of a proceeding begun as provided in paragraph (2) (and of any supplemental proceeding with respect thereto under subsection (b)). Notwithstanding section 7421(a), the collection by levy or proceeding may be enjoined during the time such prohibition is in force by a proceeding in the proper court.

"(2) SUIT MUST BE BROUGHT TO DETERMINE LIABILITY.—If, within 90 days after the day on which his claim for refund is denied, the person against whom the second tier tax was assessed fails to begin a proceeding described in section 7422 for the determination of his liability for such tax, paragraph (1) shall cease to apply with respect to such tax, effective on the day following the close of the 90-day period referred to in this paragraph.

"(3) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS ON COLLECTION.—The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court with respect to any second tier tax described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.

"(4) JEOPARDY COLLECTION.—If the Secretary makes a finding that the collection of the second tier tax is in jeopardy, nothing in this subsection shall prevent the immediate collection of such tax.

"SEC. 4962. DEFINITIONS.

"(a) FIRST TIER TAX.—For purposes of this subchapter, the term 'first tier tax' means any tax imposed by subsection (a) of section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975.

"(b) SECOND TIER TAX.—For purposes of this subchapter, the term 'second tier tax' means any tax imposed by subsection (b) of

section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975.

"(c) TAXABLE EVENT.—For purposes of this subchapter, the term 'taxable event' means any act (or failure to act) giving rise to liability for tax under section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975.

"(d) CORRECT.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'correct' has the same meaning as when used in the section which imposes the second tier tax.

"(2) SPECIAL RULES.—The term 'correct' means—

"(A) in the case of the second tier tax imposed by section 4942(b), reducing the amount of the undistributed income to zero.

"(B) in the case of the second tier tax imposed by section 4943(b), reducing the amount of the excess business holdings to zero, and

"(C) in the case of the second tier tax imposed by section 4944, removing the investment from jeopardy.

"(e) CORRECTION PERIOD.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'correction period' means, with respect to any taxable event, the period beginning on the date on which such event occurs and ending 90 days after the date of mailing under section 6212 of a notice of deficiency with respect to the second tier tax imposed on such taxable event, extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a) (determined without regard to the last sentence of section 4961(b)), and

"(B) any other period which the Secretary determines is reasonable and necessary to bring about correction of the taxable event.

"(2) SPECIAL RULES FOR WHEN TAXABLE EVENT OCCURS.—For purposes of paragraph (1), the taxable event shall be treated as occurring—

"(A) in the case of section 4942, on the first day of the taxable year for which there was a failure to distribute income,

"(B) in the case of section 4943, on the first day on which there are excess business holdings,

"(C) in the case of section 4971, on the last day of the plan year in which there is an accumulated funding deficiency, and

"(D) in any other case, the date on which such event occurred."

(b) CIVIL ACTIONS FOR REFUNDS.—Paragraph (1) of section 7422(g) (relating to special rules for certain excise taxes imposed by chapter 42 or 43) is amended to read as follows:

"(1) RIGHT TO BRING ACTIONS.—

"(A) IN GENERAL.—With respect to any taxable event, payment of the full amount of the first tier tax shall constitute sufficient payment in order to maintain an action under this section with respect to the second tier tax.

"(B) DEFINITIONS.—For purposes of subparagraph (A), the terms 'taxable event,' 'first tier tax', and 'second tier tax' have the respective meanings given to such terms by section 4962."

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 42 is amended by adding at the end thereof the following new item:

"Subchapter C. Abatement of second tier taxes where there is correction during correction period."

SEC. 5. EFFECTIVE DATES.

(a) FIRST TIER TAXES.—The amendments made by this Act with respect to any first tier tax shall take effect as if included in the Internal Revenue Code of 1954 when such tax was first imposed.

(b) SECOND TIER TAXES.—The amendments made by this Act with respect to any second tier tax shall apply only with respect to taxes assessed after the date of the enactment of this Act. Nothing in the preceding sentence shall be construed to permit the assessment of a tax in a case to which, on the date of the amendment of this Act, the doctrine of res judicata applies.

(c) FIRST AND SECOND TIER TAX.—For purposes of this section, the terms "first tier tax" and "second tier tax" have the respective meanings given to such terms by section 4962 of the Internal Revenue Code of 1954.

The SPEAKER pro tempore (Mr. COELHO). Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from Tennessee (Mr. DUNCAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 5391, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5391, the chapter 42 Second Tier Tax Correction Act of 1980 is designed to correct a technical defect that has been found in the operation of those tax provisions that have utilized a two-tier excise tax system to insure compliance with certain sections of the Internal Revenue Code. This legislation was developed by the Committee on Ways and Means in response to a 1979 U.S. Tax Court case, Adams against Commissioner. In this case, the Court has held that—because of a technical defect in the operation of the statute—it lacked the jurisdiction to redetermine a deficiency in the second-tier tax.

Under present law, the Internal Revenue Code contains nine sections which impose a two-tier excise tax to insure the compliance of private foundations, pension trusts, and black lung benefit trusts with certain provisions of the Code. Under each of the sections, a first-tier excise tax is imposed automatically if the foundation or trust engages in a prohibited act (such as self dealing between a disqualified person and a private foundation), and a much larger second-tier excise tax is imposed for failing to correct the prohibited act within a "correction period." The "correction period" ends after the time a court decision as to whether the taxpayer is liable for the second-tier tax becomes final.

This system is designed to provide an adequate opportunity for court review and correction of the transaction before the Internal Revenue Service can impose the second-tier tax. The second-tier taxes are intended to be sufficiently high to compel voluntary compliance (at least after court review) with these provisions.

In the Adams case, the Tax Court held that it lacked the authority to redetermine a deficiency of a second-tier tax with respect to an act of self-dealing by a private foundation. The court found that because the second-tier tax is not "imposed" until after its decision is final, it did not have the jurisdiction to redetermine a deficiency of that tax.

To correct this technical error, the bill specifies that the second-tier excise tax is to be imposed at the end of the taxable period (that is, generally when the Internal Revenue Service mails a notice of deficiency to the taxpayer with respect to the first-tier tax). However, the second-tier tax is not to be assessed if the taxpayer files a petition with the Tax Court to determine that tax and the taxpayer corrects the prohibited act by the end of the correction period. Under the bill, the correction period is to end when the decision of the Tax Court becomes final.

Mr. Speaker, this is a strictly noncontroversial technical correction. I urge its approval by the House.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the suspension of rules and passage of H.R. 5391, chapter 42, Second Tier Tax Correction Act of 1980.

A two-level excise tax is imposed on private foundations which engage in certain prohibited transactions, such as self-dealing. When a prohibited transaction is identified, the private foundation is subjected to a small initial tax, called the first tier tax. If the prohibited activity is not corrected within 90 days, then the private foundation is subjected to a much higher second tax, called the second tier tax. Thus, the second tier tax serves primarily as a deterrent to involvement in prohibited acts.

The Tax Court ruled in 1979 that it had no jurisdiction to enforce the second tier tax because the tax was not technically imposed until after a Tax Court decision on the first tier tax became final, in which case it lacked further jurisdiction to enforce the second tier tax. H.R. 5391 amends the Internal Revenue Code to permit the Tax Court to have jurisdiction to enforce both the first and second tier excise taxes on private foundations and certain trusts.

Mr. Speaker, H.R. 5391 corrects a drafting anomaly in the tax law on private foundations. I urge its prompt passage.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 5391, as amended.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed, in the order in which that motion was entertained.

INFANT FORMULA ACT OF 1980

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 6940, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN) that the House suspend the rules and pass the bill, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 388, nays 15, not voting 29, as follows:

[Roll No. 241]

YEAS—388

Abdnor	Carr	Fish
Addabbo	Carter	Fisher
Akaka	Cavanaugh	Fithian
Albosta	Chappell	Flippo
Alexander	Cheney	Florio
Ambro	Clausen	Foley
Anderson, Calif.	Clay	Ford, Mich.
	Cleveland	Ford, Tenn.
Anderson, Ill.	Clinger	Forsythe
Andrews, N. Dak.	Coelho	Fountain
	Coleman	Fowler
Annunzio	Collins, Ill.	Frenzel
Anthony	Conable	Frost
Applegate	Conte	Fuqua
Archer	Corman	Garcia
Ashley	Cotter	Gaydos
Aspin	Coughlin	Gephardt
Atkinson	Courter	Giaimo
Bafalis	D'Amours	Gibbons
Bailey	Daniel, Dan	Gilman
Baldus	Daniel, R. W.	Gingrich
Barnard	Danielson	Ginn
Barnes	Dannemeyer	Glickman
Bauman	Daschle	Goldwater
Beard, R.I.	Davis, Mich.	Gonzalez
Beard, Tenn.	Davis, S.C.	Goodling
Bedell	de la Garza	Gore
Bellenson	Deckard	Gradison
Benjamin	Dellums	Gramm
Bennett	Derrick	Gray
Bereuter	Derwinski	Green
Bethune	Devine	Grisham
Bevill	Dickinson	Guarini
Biaggi	Dicks	Gudger
Bingham	Dixon	Guyer
Blanchard	Dodd	Hagedorn
Boggs	Donnelly	Hall, Ohio
Boland	Dornan	Hall, Tex.
Bolling	Dougherty	Hamilton
Boner	Downey	Hammer-schmidt
Bonior	Drinan	
Bonker	Duncan, Tenn.	Hance
Bouquard	Early	Hanley
Bowen	Eckhardt	Harkin
Brademas	Edgar	Harris
Breaux	Edwards, Ala.	Harsha
Brinkley	Edwards, Calif.	Hawkins
Brodhead	Edwards, Okla.	Heckler
Brooks	Emery	Hefner
Broomfield	English	Heftel
Brown, Ohio	Erdahl	Hightower
Broyhill	Erlenborn	Hillis
Buchanan	Ertel	Hinson
Burgener	Evans, Del.	Holland
Burlison	Evans, Ga.	Hollenbeck
Burton, John	Evans, Ind.	Holt
Burton, Phillip	Fary	Holtzman
Butler	Fazio	Hopkins
Byron	Fenwick	Horton
Campbell	Ferraro	Howard
Carney	Findley	Hubbard
Huckaby	Moffett	Seiberling
Hughes	Mollohan	Sensenbrenner
Hutto	Montgomery	Shannon
Hyde	Moorhead, Calif.	Sharp
Ireland		Shelby
Jacobs	Moorhead, Pa.	Shumway
Jeffords	Mottl	Shuster
Jenkins	Murphy, Ill.	Simon
Jenrette	Murphy, N.Y.	Skelton
Johnson, Calif.	Murphy, Pa.	Smith, Iowa
Johnson, Colo.	Murtha	Smith, Nebr.
Jones, N.C.	Musto	Snowe
Jones, Okla.	Myers, Ind.	Snyder
Jones, Tenn.	Myers, Pa.	Solarz
Kastenmeier	Natcher	Solomon
Kazen	Neal	Spence
Kemp	Nedzi	St Germain
Kildee	Nelson	Stack
Kindness	Nichols	Staggers
Kogovsek	Nolan	Stanton
Kostmayer	Nowak	Stark
Kramer	O'Brien	Steed
LaFalce	Oakar	Stenholm
Lagomarsino	Oberstar	Stockman
Latta	Obey	Stokes
Leach, Iowa	Panetta	Stratton
Leach, La.	Pashayan	Studds
Lederer	Patten	Swift
Lee	Patterson	Synar
Lent	Pease	Tauke
Levitas	Pepper	Taylor
Lewis	Perkins	Thomas
Livingston	Petri	Thompson
Lloyd	Peyser	Traxler
Loeffler	Pickle	Trible
Long, La.	Porter	Udall
Long, Md.	Preyer	Vander Jagt
Lott	Price	Vento
Lowry	Pritchard	Volkmer
Lujan	Pursell	Walgren
Luken	Quayle	Walker
Lundine	Quillen	Wampler
Lungren	Rahall	Watkins
McClory	Ralisback	Waxman
McCloskey	Rangel	Weaver
McCormack	Ratchford	Weiss
McDade	Regula	White
McHugh	Reuss	Whitehurst
McKay	Rhodes	Whitley
Madigan	Richmond	Whittaker
Maguire	Rinaldo	Whitten
Markey	Ritter	Williams, Mont.
Marks	Roberts	Williams, Ohio
Marlenee	Robinson	Wilson, Tex.
Marriott	Rodino	Winn
Martin	Roe	Wirth
Matsui	Rosenthal	Wolff
Mattox	Roth	Wolpe
Mavroules	Roybal	Wright
Mazzoli	Royer	Wyatt
Mica	Rudd	Wydler
Michel	Runnels	Wylie
Mikulski	Russo	Yates
Miller, Calif.	Sabo	Yatron
Miller, Ohio	Santini	Young, Alaska
Mineta	Satterfield	Young, Fla.
Minish	Sawyer	Young, Mo.
Mitchell, Md.	Scheuer	Zablocki
Mitchell, N.Y.	Schroeder	Zeferetti
Moakley	Schulze	

NAYS—15

Ashbrook	Ichord	Moore
Badham	Jeffries	Paul
Collins, Tex.	Kelly	Rousselot
Crane, Daniel	Leath, Tex.	Stangeland
Crane, Philip	McDonald	Stump

NOT VOTING—29

Andrews, N.C.	Grassley	Sebelius
AuCoin	Hansen	Spellman
Brown, Calif.	Lehman	Stewart
Chisholm	Leland	Symms
Conyers	McEwen	Ullman
Corcoran	McKinney	Van Deerlin
Diggs	Mathis	Vanik
Dingell	Ottinger	Wilson, Bob
Duncan, Oreg.	Rose	Wilson, C. H.
Fascell	Rostenkowski	

□ 1350

The Clerk announced the following pairs:

Mr. Rostenkowski with Mr. Grassley.

Mrs. Spellman with Mr. Symms.

Mr. Van Deerlin with Mr. Bob Wilson.

Mr. Rose with Mr. McKinney.

Mr. AuCoin with Mr. McEwen.

Mr. Fascell with Mr. Hansen.

Mr. Duncan of Oregon with Mr. Corcoran.

Mr. Charles H. Wilson of California with Mr. Ottinger.

Mr. Ullman with Mr. Sebelius.

Mr. Lehman with Mr. Vanik.

Mrs. Chisholm with Mr. Andrews of North Carolina.

Mr. Leland with Mr. Brown of California.

Mr. Mathis with Mr. Conyers.

Mr. Dingell with Mr. Diggs.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Federal Food, Drug, and Cosmetic Act to strengthen the authority under that Act to assure the safety and nutrition of infant formulas, and for other purposes.".

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed on Monday, May 19, 1980, in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 7102 and H.R. 3.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

THE VETERANS' ADMINISTRATION HEALTH-CARE PERSONNEL ACT OF 1980

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 7102, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill, H.R. 7102, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 406, nays 1, not voting 25, as follows:

[Roll No. 242]

YEAS—406

Abdnor	Bethune	Cavanaugh
Addabbo	Bevill	Chappell
Akaka	Biaggi	Cheney
Albosta	Bingham	Clausen
Alexander	Blanchard	Clay
Ambro	Boggs	Cleveland
Anderson, Calif.	Boland	Clinger
	Bolling	Coelho
Anderson, Ill.	Boner	Coleman
Andrews, N. Dak.	Bonior	Collins, Ill.
	Bonker	Collins, Tex.
Annunzio	Bouquard	Conable
Anthony	Bowen	Conte
Applegate	Brademas	Corman
Archer	Breaux	Cotter
Ashbrook	Brinkley	Coughlin
Ashley	Brodhead	Courter
Aspin	Brooks	Crane, Daniel
Atkinson	Broomfield	Crane, Philip
Badham	Brown, Ohio	D'Amours
Bafalis	Broyhill	Daniel, Dan
Bailey	Buchanan	Daniel, R. W.
Baldus	Burgener	Danielson
Barnard	Burlison	Dannemeyer
Barnes	Burton, John	Daschle
Bauman	Burton, Phillip	Davis, Mich.
Beard, R.I.	Butler	Davis, S.C.
Beard, Tenn.	Byron	de la Garza
Bedell	Campbell	Deckard
Benjamin	Carney	Dellums
Bennett	Carr	Derrick
Bereuter	Carter	Derwinski

Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—1

Bellenson

NOT VOTING—25

Andrews, N.C.
AuCoin
Brown, Calif.
Chisholm
Conyers
Corcoran
Diggs
Duncan, Oreg.
Fascell
Grassley
Lehman
Leland
McEwen
McKinney
Mathis
Ottinger
Rose
Sebelius
Spellman
Stewart
Symms
Ullman
Van Deerlin
Vanik
Wilson, C. H.

□ 1410

The Clerk announced the following pairs:

Mr. Brown of California with Mr. Symms.
Mrs. Spellman with Mr. McEwen.
Mr. Ullman with Mr. Corcoran.
Mr. Charles H. Wilson of California with Mr. Sebelius.
Mr. Fascell with Mr. McKinney.
Mr. AuCoin with Mr. Grassley.
Mr. Leland with Mr. Andrews of North Carolina.
Mr. Lehman with Mr. Conyers.
Mr. Rose with Mr. Van Deerlin.
Mr. Diggs with Mr. Vanik.
Mr. Duncan of Oregon with Mr. Mathis.
Mr. Ottinger with Mrs. Chisholm.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3) of rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair has postponed further proceedings.

OMNIBUS NATIONAL PARKS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON) that the House suspend the rules and pass the bill, H.R. 3, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 300, nays 102, not voting 30, as follows:

[Roll No. 243]

YEAS—300

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Anthony
Aspin
Atkinson
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Bellenson
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Clinger
Coelho
Collins, Ill.
Conable
Conte
Corman
Coughlin
Danielson
Daschle
Davis, S.C.
de la Garza
Deckard
Dellums
Derwinski
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Fary
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gore
Gradison
Gray
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Huckaby
Hughes
Hutto
Ireland
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lee
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Lowry
Lujan
Luken
McClory
McCloskey
McCormack
McHugh
McKay
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Porter
Preyer
Pritchard
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Royer
Runnels
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Shannon
Sharp
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spence
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Udall
Vander Jagt
Vento
Walgren
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Zablocki
Zeferetti

NAYS—102

Applegate
Archer
Ashbrook
Ashley
Badham
Bafalis
Beard, Tenn.
Benjamin
Bouquard
Brown, Ohio
Burgener
Butler
Carney
Cleveland
Coleman
Collins, Tex.
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, R. W.
Dannemeyer
Davis, Mich.
Devine
Dickinson
Edwards, Okla.
English
Erlenborn
Evans, Ind.
Fish
Forsythe
Fountain
Frenzel
Giaimo
Goodling
Gramm
Grisham
Guyer
Hagedorn
Hansen
Hinson
Holt
Hopkins
Hubbard

Hyde	Mica	Shelby
Ichord	Michel	Shumway
Jacobs	Miller, Ohio	Shuster
Jeffords	Minish	Snyder
Jeffries	Mollohan	Solomon
Jenkins	Montgomery	Stangeland
Jenrette	Myers, Ind.	Stenholm
Kelly	Natcher	Stockman
Kemp	O'Brien	Stump
Kindness	Paul	Taylor
Latta	Petri	Trible
Leath, Tex.	Regula	Volkmer
Livingston	Ritter	Walker
Lott	Robinson	Wampler
Lungren	Roth	Whitley
McDade	Rousselot	Wydler
McDonald	Rudd	Young, Alaska
Madigan	Satterfield	Young, Fla.
Marlenee	Sensenbrenner	Young, Mo.

NOT VOTING—30

Andrews, N.C.	Fascell	Ottinger
AuCoin	Gonzalez	Rose
Brown, Calif.	Grassley	Sebelius
Chisholm	Lehman	Spellman
Conyers	Leland	Stewart
Corcoran	Long, Md.	Symms
Daniel, Dan	Lundine	Ullman
Derrick	McEwen	Van Deerlin
Diggs	McKinney	Vanik
Duncan, Oreg.	Mathis	Wilson, C. H.

☐ 1420

The Clerk announced the following pairs:

Mrs. Spellman with Mr. Grassley.
Mr. Gonzalez with Mr. Sebelius.
Mr. Fascell with Mr. Symms.
Mr. Mathis with Mr. McKinney.
Mr. Rose with Mr. Corcoran.
Mr. Ottinger with Mr. Andrews of North Carolina.
Mrs. Chisholm with Mr. McEwen.
Mr. AuCoin with Mr. Long of Maryland.
Mr. Derrick with Mr. Diggs.
Mr. Duncan of Oregon with Mr. Conyers.
Mr. Dan Daniel with Mr. Van Deerlin.
Mr. Brown of California with Mr. Vanik.
Mr. Ullman with Mr. Leland.
Mr. Charles H. Wilson of California with Mr. Lehman.
Mr. Lundine with Mr. Stewart.

Mr. BARNARD changed his vote from "nay" to "yea."

Mr. LEATH changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to provide, with respect to the national park system: for the establishment of new units; for adjustments in boundaries; for increases in appropriation authorizations for land acquisition and development; and for other purposes.".

A motion to reconsider was laid on the table.

REQUEST FOR PERMISSION FOR COMMITTEE ON JUDICIARY TO SIT ON WEDNESDAY AND THURSDAY DURING 5-MINUTE RULE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that on Wednesday and Thursday next, that is, tomorrow and and the day after tomorrow, the Committee on the Judiciary be permitted to sit while the House is operating under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. McCLORY. Mr. Speaker, I reserve the right to object.

Mr. SENSENBRENNER. I reserve the right to object.

Mr. McCLORY. Mr. Speaker, I yield to the gentleman from California for the purpose of explaining the unanimous consent request that he is making.

Mr. DANIELSON. I thank the gentleman from Illinois for yielding. The purpose is as follows: We have now before the Committee on the Judiciary two major bills which are in the process of markup. One of them is the Criminal Code Revision Act of 1980 in which we are well into the bill but still have a long way to go. The other is the Regulatory Reform Act of 1980 in which we are within about 1½ hours, I would say, of completing markup.

Mr. McCLORY. Further reserving the right to object, Mr. Speaker, I just want to indicate that I think we should move ahead rapidly with the Federal Criminal Code markup. With regard to the regulatory reform bill, I do not know whether I am going to support it, but I think the committee should complete its markup and bring the measure to the floor of the House, or kill it in the committee, but we should complete our Judiciary Committee work on the bill. I would hope that there would be no objection because this is extremely important business for the House Committee on the Judiciary to complete.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. SENSENBRENNER. Reserving the right to object, Mr. Speaker, tomorrow the House is scheduled to take up the resolution relating to the matter of the gentleman from California (Mr. CHARLES H. WILSON). That is the recommendation of the Committee on Standards of Official Conduct, on which the House actually acts as the jury in judging one of our peers. Is it the intent of the gentleman from California to have the Committee on the Judiciary in session during this very important debate?

Mr. DANIELSON. Would the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from California.

Mr. DANIELSON. First, I thank the gentleman for yielding, and then I thank the gentleman for bringing up that point. I was not mindful of that possible debate being in conflict at that time I made my request. I would represent to the gentleman, and I do so represent, that it is not my intention that the Committee on the Judiciary sit during the consideration of the resolution to which the gentleman has just referred.

Mr. SENSENBRENNER. Mr. Speaker, further reserving the right to object, in yesterday's RECORD on the bottom of page 11583, the gentleman from Massachusetts (Mr. DRINAN) was quoted, and I quote:

> Mr. Speaker, I talked with the gentleman from Wisconsin (Mr. SENSENBRENNER), and I do think that a compromise or an accommodation is possible so that his objection will be met. We worked out a rule which will be in operation during the conduct of the business of this week, and I would hope the gentleman from Wisconsin would be satisfied with the accommodation.

While the gentleman from Massachusetts (Mr. DRINAN) did talk to me, he did not specifically reach an agreement with me on committee procedures and, consequently, the statement of the gentleman from Massachusetts is misleading since we did not work out a compromise, so for that reason I am constrained to object. Mr. Speaker, I object.

Mr. DANIELSON. Will the gentleman yield further before he lodges his formal objection?

Mr. SENSENBRENNER. I yield to the gentleman from California.

Mr. DANIELSON. I thank the gentleman for yielding. I would hope that the gentleman would, insofar as the Criminal Code revision is concerned, permit the gentleman from Massachusetts to respond. As to the other bill that I mentioned, the regulatory reform bill, I represent to the gentleman and I would, if the unanimous consent request is granted, ask that the request be modified to provide that we not be permitted to sit in the Committee on the Judiciary while the resolution in which the gentleman named is being discussed. That would enable us to move along to some extent on this work.

Mr. DRINAN. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Massachusetts.

Mr. DRINAN. I thank the gentleman for yielding. I think it should be pointed out that the gentleman from Wisconsin (Mr. SENSENBRENNER) has difficulties with the rule on proxies in the House Committee on the Judiciary. On that account, unrelated to the Criminal Code, he is insisting that the entire Criminal Code bill be read. It is 450 pages, and it is estimated that it will take 22 hours to read this, at the insistence of the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman alone. I think, therefore, and I will plead with the gentleman from Wisconsin, that if he is going to continue to insist upon its being read that we should have permission to sit under the 5-minute rule so that we can process this bill which is the culmination of 10 years of work of this body.

Mr. SENSENBRENNER. Mr. Speaker, further reserving the right to object, I would submit to the gentleman from Massachusetts (Mr. DRINAN) that that is a matter that should be worked out in the Committee on the Judiciary rather than on the floor of the House.

Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. DANIELSON. Does the gentleman object to both bills?

Mr. SENSENBRENNER. Yes.

The SPEAKER pro tempore. The Chair will state it requires 10 Members to object.

(Messrs. McCLORY, DEVINE, BAUMAN, ROUSSELOT. BROWN of Ohio, FRENZEL, LEWIS, LATTA, COURTER, and LOTT also objected.)

The SPEAKER pro tempore. More than a sufficient number have objected.

Objection is heard.

INCREMENTAL PRICING OF NATURAL GAS

Mr. SHARP. Mr. Speaker, pursuant to the provisions of section 507(d)(4) of Public Law 95–621, I move that the House proceed to the consideration of the House Resolution 655, disapproving the proposed rule under section 202 of the Natural Gas Policy Act of 1978 (relating to incremental pricing) transmitted to the Congress on May 6, 1980.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 655

Resolved, That the House of Representatives does not approve the proposed rule under section 202 of the Natural Gas Policy Act of 1978 (relating to incremental pricing of natural gas) a copy of which was transmitted to the Congress on May 6, 1980.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. SHARP).

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of section 507(d)(4) of Public Law 95–621, the gentleman from Indiana (Mr. SHARP) will be recognized for 5 hours, and the gentleman from Ohio (Mr. BROWN) will be recognized for 5 hours.

The Chair recognizes the gentleman from Indiana (Mr. SHARP).

□ 1430

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as part of the National Energy Act, Congress passed the Natural Gas Policy Act of 1978. The NGPA is the product of compromise. It represents the resolution of a number of bitterly contested natural gas pricing policy issues which was forged only after an extended struggle. The NGPA was designed to resolve the divisive debate which had characterized natural gas pricing policy for nearly 30 years.

The principal dispute among the House and Senate conferees on this legislation concerned the issue of wellhead price controls. The House conferees were very much concerned over the disruptive effect on the Nation's economy that deregulation of wellhead prices would create if it were to occur during a period of market imbalance. Deregulated gas prices would initially be driven far above long-run market clearing levels as rolled-in pricing permitted interstate pipelines to bid the price of new gas supplies to very high levels.

The disruptive effect on the national economy that would be caused by sudden deregulation was the principal reason why the conference committee ultimately adopted wellhead price ceilings with moderate price escalation to prepare natural gas markets for eventual decontrol. The NGPA provided for the elimination of wellhead price controls for certain categories of gas production between the date of enactment and 1985. The elimination of price controls was accomplished by establishing several increasing price paths for different categories of natural gas which would be gradually increased to approximate equivalency with alternate fuels by 1985. In this manner, the conferees provided what they hoped would be an orderly transition mechanism to deregulation in 1985.

However, concern remained that market imbalances would still exist when certain categories of natural gas production were price deregulated in 1985. Accordingly, incremental pricing was agreed to as a market ordering device.

Incremental pricing itself however, is a complicated matter. Accordingly, the conferees decided to implement incremental pricing in two stages: The first mandatory and the second discretionary. The first stage mandated that incremental pricing apply to industrial boiler fuel users. The second stage required that the Federal Energy Regulatory Commission (FERC) exercise its judgment to extend incremental pricing to other industrial users of natural gas. Because incremental pricing was complex and because the impact of the extension of incremental pricing to nonboiler industrial users at a later time was unknown, the Congress reserved to itself the final judgment on whether and when incremental pricing should be extended.

Economic and market conditions have changed drastically and in unanticipated ways since we passed the NGPA in 1978. During 1979, world oil prices doubled. Energy prices have increased substantially and demand is falling. There is a temporary surplus of natural gas. The United States is experiencing high inflation and appears to be entering a relatively severe recession.

Under these altered conditions, it just does not make any sense to implement this rule.

First, Mr. Speaker, we do not at this time need incremental pricing as a market ordering device because there is presently a temporary surplus of gas deliverability. Given the fragile position of our economy, it makes no sense to deliberately add another cost burden to American industry—possibly a 23-percent surcharge on top of scheduled increases for the gas itself as price controls are phased out. Furthermore, serious questions have been raised by FERC and gas pipelines, producers and users as to whether phase 2, that is nonboiler fuel industrial incremental pricing, can effectively operate as a market ordering device.

Second, Mr. Speaker, the shielding effect for high priority gas users—residential and others including agriculture, schools, and hospitals—is quite small. In part that is because so many fall into the category of protected users. At best, the average residential user might save $10 a year under rule 2. As we heard from the FERC before our committee, incremental pricing is simply too blunt an instrument to provide effective shielding from price increases for those most in need. Indeed, the benefits are indiscriminate. Those families with the largest homes would benefit far more than would the poor and even greater benefits would flow to the various industrial boiler users who are exempt from phase 1 and would be exempt from phase 2 of incremental pricing.

Third, Mr. Speaker, there is still much uncertainty about the operation and effects of incremental pricing as instituted under phase 1. It is clear that the Commission needs to review the operation of phase 1, especially with an eye toward reducing the volatility in the monthly posted oil prices and they should exercise more freely the flexibility given them in the statute to set prices within a range of alternate fuel prices and in relating to the program to the gas producer market.

Given the uncertainty still surrounding the implementation of phase 1, the limited benefits that accrue to those we were trying to protect and given the burdens placed in certain industries in these times, we should, and did in our Subcommittee on Energy and Power with the leadership and our chairman, JOHN DINGELL, and our full committee chairman, HARLEY STAGGERS, look very carefully at the decision whether to implement phase 2 of the incremental pricing.

I have described the delicate compromise that produced the NGPA. Overall, the NGPA left the issue of the extension of incremental pricing for review by the Congress precisely because of the possibility of the changed circumstances I have outlined. Because circumstances have changed, I am convinced that we should not extend incremental pricing. Accordingly, I urge the adoption of House Resolution 655, which will prevent phase 2 of incremental pricing from taking effect.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. SHARP. I yield to the gentleman from Michigan.

Mr. DINGELL. I commend the gentleman for his handling of this bill. The gentleman is an outstanding member of the subcommittee. I support the gentleman's effort here.

The Natural Gas Policy Act of 1978 made natural gas more expensive. Congress decided—through a special mechanism called incremental pricing—to place more than a pro rata share of the burden of higher gas prices on industrial users of gas. The perception was that large industrial customers are the first to benefit from new supplies of decontrolled gas and that they should begin to pay the true costs of the extra supplies that they received. Indeed, the premise for deregulating certain natural gas prices was that to price domestic fuels below the costs of imported energy would disguise the real replacement cost of these resources, encourage waste and contribute to our dependence on imported fuels.

Incremental pricing applies only to interstate natural gas. A two-stage process is utilized to determine which industrial users will be subject to incremental pricing. First, the law mandated that incremental pricing apply to industrial boiler fuel users. Second, the law required the Commission to use its discretion, subject

to congressional review, to extend incremental pricing to other nonboiler industrial users. The Commission's decision on this matter was submitted to Congress on May 6, 1980.

Very briefly, the Commission decided that all nonboiler industrial users not exempted by the law should be included in the incremental pricing program. The Commission also decided to exempt the first 300 Mcf used each day and set a ceiling price at the price of high sulfur No. 6 fuel oil.

It is the Commission's decision extending incremental pricing from boiler to nonboiler industrial uses that is the subject of this congressional review.

Most significantly, the Commission's decision contains a warning. It warns that natural gas prices are likely to rise significantly in 1985. Accordingly, it said that there is going to be a real need for a market-ordering mechanism when deregulation occurs in 1985. The Commission said that its record underscored and supported the concern that the Congress had in 1978 over the possibility of a disorderly transition to deregulation in 1985.

Right now, natural gas that is already deregulated is selling at price equivalence with No. 2 fuel oil. The Commission found that if this continues, the price of gas deregulated in 1985—which will be about one half of all flowing interstate gas—will double. This doubling in price would be a substantial and abrupt shock to our economic and political systems in 1985.

The inescapable conclusion is that we must have an effective mechanism in place before 1985 that will order natural gas markets.

Unfortunately, there are several factors which indicate that we should veto the rule submitted by the Commission.

First, there is too much uncertainty at this time to go ahead with this rule. The Commission itself laments the fact that it has inadequate knowledge, data, and experience to proceed properly with an extension of incremental pricing at this time.

Second, current economic and changed market circumstances indicate that this is not a good time to extend incremental pricing.

There is a temporary surplus of natural gas deliverability. This means that natural gas markets are not currently disordered and that a demand restraint mechanism is not required at this time; and

The Commission's rule may not be consistent with our current national priority to decrease our rate of inflation and to moderate any recession.

Third, the Commission's rule is seriously flawed. The law says that incremental pricing can take industrial gas prices up to a price equivalent to the price of No. 2 fuel oil. However, the Commission said that prices could not go above each individual facility's alternative fuel cost. The Commission failed to recognize that ceiling prices can go above actual alternative fuel costs—all the way up to the price of No. 2 fuel oil. It is this failure that accounts for the Commission's erroneous finding that incremental pricing would not achieve market ordering.

The Commission is supposed to set a facility's incremental price ceiling within a range of prices between the price of No. 6 fuel and No. 2 fuel oil. This permits low prices when load loss should be minimized and higher prices when there is a need to order markets.

A veto of the Commission's rule is not a rejection of the need to provide the right price signals to end users of gas. The concept of incremental pricing remains viable. It is critically important that industrial end users be charged prices that reflect the commodity value of gas. One reason we deregulated gas prices was because we were told that other pricing policies would fail to reflect the commodity value of gas, encourage waste and subsidize imports.

Now that higher gas prices are here, however, I am very much concerned by the unwillingness of industry to pay even the minimum commodity value for its gas—the price of high sulfur No. 6 fuel oil. This intransigence convinces me that Congress should not accelerate the pace of natural gas decontrol.

I remain very concerned about the need for a market-ordering mechanism when decontrol occurs in 1985. I am confident that the Commission will use any market-ordering options available to it to avoid market instability in 1985.

Accordingly, for the reasons I have stated, I support the resolution of disapproval introduced by the gentleman from Indiana, Mr. SHARP, and urge my colleagues to vote in favor of the resolution.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. SHARP. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Speaker, the gentleman has stated there is little benefit to the residential user but that there may be a considerable impact upon industrial users.

It is not true that, although the effect on an individual residential user may be relatively small, and on an industrial user relatively large, that the full effect on each balances out? In other words, what is given as a benefit to the industrial user by this measure is taken away in that amount from residential users; it is not?

Mr. SHARP. Well, of course the rule would have done the reverse.

Mr. ECKHARDT. That is right, but what I am talking about, Mr. Speaker, is it goes one place or the other.

Mr. SHARP. We think it would probably be, by the fall, about a $700 million shift from one class of user to other classes. Of course the protected class of use includes more than residential. It includes, for example, agricultural boiler fuel users that are under the protected class as well as schools, hospitals, and small commercial boiler fuel users.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. SHARP. I will be happy to yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Speaker, I have had some concerns about our shift on this matter from the policy that the Congress decided on a couple of years ago. I know the gentleman has thought this through carefully. I wanted to ask the gentleman two questions. By taking this action that the gentleman proposes; namely, not to implement phase 2, is the gentleman satisfied there is not going to be a significant cost to us in energy conservation, given that some of the larger users of natural gas would in fact be those who would have been affected if we had gone ahead with phase 2, who would have had to pay somewhat more for their gas and then would have presumably made more rational decisions about the use of that fuel and specifically the conservation of that fuel?

Mr. SHARP. The Federal Energy Regulatory Commission directly addressed this question in their testimony before our committee. I believe it is also in the written information accompanying the rule—that the loss in terms of conservation benefit would probably be minor because with a jump of perhaps 23 percent in the charge this fall we would see few short term effects in terms of conservation, that the conservation is longer term and it is very clear that the industries do see that over the longer term their prices are going up.

Mr. Speaker, it is of course a difficult thing to assess. I think the gentleman can argue any price increase has some conservation effect. The difficulty is knowing whether it is really a large effect and it is a question of how quickly you get that effect.

Mr. MAGUIRE. Well, we do get into the short term-long term argument and I think sometimes, to have any effect on the long term, you have to start in the short term.

The same question arises with respect to equity. One of the objectives our previous proposals had was, of course, to shelter consumers, who cannot easily switch from the equivalent impact of the price increases as a result of deregulation of natural gas.

□ 1440

I know that arguments have been made that those effects are also marginal, but I am also aware that down the road, in the longer run, they are likely to be more than marginal. It seems to me that with respect to conservation and with respect to equity, there are some gains to be achieved in the short run, although they may be less than what we originally thought, but clearly there will be gains in the long run which will be lost if we don't go ahead with phase 2. Would the gentleman comment on that?

Mr. SHARP. Yes. First of all, of course the gentleman realizes that we are not tampering with phase 1.

Mr. MAGUIRE. I understand that.

Mr. SHARP. That provides some shielding to the protected class of users. However, as the gentleman has already indicated, certainly the shielding is minimal under rule 2 as devised. At this time it is not clear that it would necessarily grow greater. In fact, there is a real possiblity with the way the incremental pricing plan stands that no additional protection will be available.

I think about 23 States have adopted State plans which peg industrial user gas at the alternative price which the Federal Energy Regulatory Commission has selected. Because of softness in that market for residual fuel oil which is used at that alternative price, if those State plans were not adjusted over time, and if we did not see a major tightening of the residual fuel oil market, we could actually see a situation several years out where the industrial fuel user is being priced below what I think the price the gentleman thinks is equitable.

That is one of the quirks that could occur. There is no assurance that it will occur. I think the problem is that our incremental pricing in phase 2 is a very blunt instrument. It does not help us in a way that we have got to do, I believe, and that is get at those residual users who truly are not in a position to engage in much conservation and are at the lower end of the economic ladder.

One of the difficulties is that if one owns a very large home, which means probably that one is in a higher income bracket, and uses natural gas, the benefit may be $20 or $30 a year, but for the average family it would probably be $10 a year or less. In addition, the agricultural user, who the Congress decided has a special privilege and priority, would find himself with literally thousands of dollars of benefits under rule 2. Very frankly, while that it nice, it does not address the equity question which the gentleman very seriously wants to address. The gentleman is asking a very serious question about what happens when we get to 1984 or 1985, and the price controls begin to come off. The Commission warned us that we have to monitor that very carefully. We have to look carefully at what devices Congress may want to adopt. They may have to be something outside of the NGPA in order to take into account what may be a spiking of prices at that time. We are not certain that will occur. It is something we must be very sensitive to over the next couple of years to assess where this is headed and who is going to be hurt and who is going to benefit.

Mr. MAGUIRE. I thank the gentleman for his comments and thoughtful answers. I know that he has studied this in great detail. Does the gentleman have any assurance, or can he assure this House that anybody is going to look at this matter 2, or 3, or 4 years out, whether that be FERC or the energy committees of the House? What assurance do we have that we are going to get another chance to correct this?

Mr. SHARP. First of all, the NGPA already requires such reports to the Congress as we get closer to 1985. They are forced to go through an analysis and provide it to the public and to the Congress. The gentleman has my assurance if I have anything to do with policy at that time—that would depend upon my citizens back home—I certainly would be interested in that. I know that the chairman of the subcommittee, whose likelihood of being here is greater than mine, has indicated in numerous public statements his intent, and I believe the remarks he just asked to have placed in the RECORD make that very clear, to pursue his interests in this matter.

So, I think one need not assume that our action is a final resolution of this problem today. I would be very concerned if we were to dismiss all the equity questions by a vote on this matter today.

Mr. MAGUIRE. I thank the gentleman for his explanation. I think, on balance, that I am going to come down on the other side of this from the gentleman. I agree that this is a blunt instrument, the proposed phase 2, and it has all sorts of imperfections, but I think at the margin, particularly if we go on into future years, it probably would have benefits both for conservation and for equity. Of course, by equity I do not mean everybody paying the same price per unit of energy. I mean something that is graduated in relation to the ability to pay and handle the increased costs, and in relation to conservation objectives.

I thank the gentleman.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. SHARP. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I would like to commend the gentleman also for this legislation, and I agree with everything he said.

I would like to also address a couple of questions, if the gentleman would respond, that I have and which go along with the gentleman from New Jersey as to where we are and how we got here. when we were working on the legislation, we did not have, as a matter of fact, the oil problem as the natural gas problem. Is that not correct?

Mr. SHARP. Certainly. our concern had been riveted to the natural gas problem because of curtailments that had been occurring in recent winters, and one so severe that we had unemployment in my district and perhaps in the gentleman's district, where people lost considerable income because there was not an adequate supply of gas to keep the factories open. That certainly called our attention to the issue.

Mr. VOLKMER. What about the supply as to where we are now as against where we were at that time?

Mr. SHARP. Our supply situation in the interstate market is very improved by the NGPA. The gas that was available in the intrastate market has very clearly been able to flow into the interstate market where the shortage was. Drilling is up for oil and gas. Important statistics coming out this year indicate additions to reserves much greater than any year in recent times, so we do find a much more favorable market situation in natural gas than what we could see in 1978, though there were considerable disputes. I would urge a bit of caution on that. I think we still do not know how much is out there. I do not think anybody should be euphoric about natural gas supplies, but there is improvement in that and a very serious situation in oil.

Mr. VOLKMER. In other words, what we have to do is continue to monitor it, as the gentleman has previously stated, the change between 1978 and 1980 and that between 1980 and 1982.

Mr. SHARP. Certainly.

Mr. VOLKMER. Another point that bothered me a little bit about the FERC regulations is that some of the provisions, and also in the past year I for one have been working with industry in my district to get a change from oil to natural gas, and then to see this regulation go into effect and actually change a revision for this bothers me a great deal. But, I do not blame FERC altogether because we required them to do this. But, I think we are going to have to work with FERC to continue to monitor, and at least have a more workable regulation than this.

Mr. SHARP. I appreciate the gentleman's remarks. I think what he said about the Federal Energy Regulatory Commission ought to be repeated. That is, I think they basically did intend to carry out the intent of Congress, which was to have a mandated program on boiler fuel use, and to propose an expanded program to cover a lot of other industrial uses. That is the phase 2 we are dealing with today. The Commission itself expressed its doubt about the value of the phase 2 policy, but they did carry out the requirement we had included in the law that they produce a rule. So, we are using a legislative veto not as a way to discipline that agency, but as a way for us, as I think we intended by the conferees on the 1978 act, to have a second look at the policy that we could not be certain of that we were not willing to mandate at that time.

□ 1450

Mr. VOLKMER. As I understand it from a reading of the rule, they almost invited or it is the same thing as inviting the Congress to take a look at it because of the changing circumstances.

Mr. SHARP. Mr. Speaker, I think that is a fair interpretation.

Mr. STOCKMAN. Mr. Speaker, will the gentleman yield?

Mr. SHARP. I yield to the gentleman from Michigan.

Mr. STOCKMAN. Mr. Speaker, I was just interested in the gentleman's comment about the equity income distribution of social policy goals intended for incremental pricing

I wonder if the gentleman would just compare the difficulty and turmoil we have with this whole rule with the lightning speed with which we passed the Fuel Assistance Act last fall, and I suggest that we need to learn from this episode, if we do have these concerns and if they need to be addressed, that we would be far better off to build these factors into the taxes to achieve those objectives rather than trying to build them into a price structure as was intended here.

Mr. SHARP. Mr. Speaker, basically I agree with the philosophy the gentleman has indicated here, and that is that we can more effectively address energy policy for this country and the social equity question if we do it separately and if we do try to define our energy pricing policy by trying to accomplish certain social goals.

In reality, I think this is what the Chairman of the Federal Energy Regulatory Commission was suggesting to us in the hearing on this rule. He feels that we must take steps to protect those

families, be they senior citizens or low-income households, that may face very serious increases in the price of gas and home heating oil, but he also feels that we find ourselves in conflict, and we are not doing a very good job in either direction when we try to mix our energy pricing decisions with our social policy.

However, I would just like to indicate that although we do have a lot of commitment for separating those two policies, a commitment to consider social goals and energy questions separately, we find that Members who are all in favor of separating those policies kind of lose interest when we get to the point of taking up welfare legislation or legislation on tax policy to help the situation.

Mr. STOCKMAN. Mr. Speaker, if the gentleman will yield further, is it not true that in the last law we passed, we had the $2.5 billion in the program for the overwhelming majority of people, and that had support on both sides of the House, including those who advocated handling it in this manner for exactly those reasons?

Mr. SHARP. Mr. Speaker, I think the gentleman is correct.

Unfortunately, because of the speed with which we did it, I am afraid it is not a very effective way to handle the problem, and I hope that we go back to give it more attention to make sure it is both efficient and equitable from the point of view of the person who needs it, as well as from the taxpayer's point of view.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. SHARP. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Speaker, the gentleman mentioned the Chairman of the Federal Energy Regulatory Commission.

What position does he take on this question?

Mr. SHARP. Mr. Speaker, is the gentleman speaking about the rule itself, the phase II rule?

Mr. ECKHARDT. Yes.

Mr. SHARP. Mr. Speaker, the gentleman, I think, did not clearly indicate that we ought to reject it. He simply clearly indicated that he felt it was their duty to produce the rule. They have done so.

He also indicated, as I believe the gentleman will find from the quotations in the report, that they had serious questions that this rule could accomplish its central purpose, which was as a market ordering device, and he and the others seriously questioned whether it was a very effective shield in terms of protecting the residential or low-income user.

So I would say that he expressed great doubt, although he did not directly say that we ought to veto it.

Mr. ECKHARDT. Mr. Speaker, I recall in conference that the distinguished chairman of the Subcommittee on Energy and Power was taking a very strong position with respect to the whole policy of incremental pricing. Of course, the basic underlying theory of the thing was that the increased prices that would occur from releasing a relatively low price restriction on gas rates would be pretty profound with respect to residential users over the country.

At that time, of course, the highest rate for new gas, I think, was 52 cents per Mcf in interstate commerce, and it was around $1.80 intrastate.

The gentleman was very concerned at that time that the first impact of the increase be absorbed by the industrial community.

I would like to know if this proposal or this rule is in line with that thinking, which I supported at that time, or whether there is reason to change it. Perhaps we should hear from the subcommittee chairman on that proposition. I come here without a fixed view on the issue, and I would like to hear the discussion.

Mr. SHARP. Mr. Speaker, the gentleman's question, of course, would be better addressed to the subcommittee chairman. He had to leave to attend the conference committee meeting on S. 932, so he is not here at the moment.

I believe I can generally characterize his position, which the gentleman can read tomorrow morning in the CONGRESSIONAL RECORD; I believe the gentleman would find that his view is that we should at this time veto this rule. He wishes to keep alive the possibility that the Federal Energy Regulatory Commission might at a future time, if the market circumstances change, come back to us with another rule on phase II, but he suggests that we ought to at this time veto this rule.

I must tell the gentleman that certainly the rule is to carry out the intent of what the gentleman is saying, which is a shielding mechanism or a market ordering device. However, as we have seen, from the reality of the rule, it does not appear to many of us, including the Federal Energy Regulatory Commission, to do a very good job of carrying out either of those purposes.

Therefore, we have the option today of laying it to rest or allowing it to take effect.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield further?

Mr. SHARP. I am happy to yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Speaker, does the gentleman mean that the incremental pricing presently in effect does not achieve these objectives, or that the rule would not substantially improve the mechanism now?

Mr. SHARP. Mr. Speaker, first, I believe the gentleman understands that what is in effect now is phase I, with which we are not dealing, and that affects industrial boiler fuel users. I believe the testimony from the Federal Energy Regulatory Commission would indicate that this section may have utility as a market ordering device at a later date, the reason for that being that these are users who can switch in many cases to another alternative fuel.

Therefore, from the point of view of the pipeline, they represent a risk. If the price gets up too high, if the pipeline is too far out of line, it is apparent that the industrial boiler fuel users can jump off the line, and then it could damage the incremental pricing in the pipeline. So the theory still holds on the value of the boiler fuel.

However, when we switch over to industrial users of some forms of energy, those utilities and others will not clearly benefit because with other industrial purposes there is no option to switch to anything else, and, therefore, there is no risk to the pipeline in bidding up the price of gas. So they will lose a lot in that case, and in that case it does not work.

There is a second problem, and that is that the Commission believes, from the way in which they drafted title II, that we in fact do not allow the ceiling price to go above the alternative fuel price. There is some dispute between our committee and the Commission as to what that means, but in the existing interpretation of FERC on that, that means they can never really put the industrial user at risk so that they might jump off.

I might suggest to the gentleman that that is all theoretical because we are having such great difficulty determining in a timely way what is the alternative fuel price that determines the ceiling for the incremental price and in phase I the identification of that price by FERC does not match anything like what the boiler fuel user sees in the marketplace.

So now the boiler fuel users are complaining to us that those prices do not represent real prices because the prices are volatile and they are jumping all over the place. They are more volatile than other prices of fuel, and they are particularly volatile now.

So that is one of the difficulties of phase I that we are trying to get the Commission to reexamine. They say they will reexamine it and sort that out. The thinking is that it needs to be sorted out before we consider going on to phase II, where it is potentially more of a problem in the larger industrial sector that would be affected by phase II.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield further?

Mr. SHARP. I am happy to yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Speaker, as I understand it, there were really two basic objectives in the act. One was to try to move industrial gas out of industrial use, particularly boiler fuel use, and this to a certain extent, as I understand it, was to be influenced by incremental pricing because it would keep the price relatively high for that purpose and relatively low for residential purposes.

The other purpose, as I understand it, of the incremental pricing rule was to provide a cushion with respect to increased residential pricing.

I think the gentleman has spoken largely to the first purpose and has indicated that is not now being achieved for reasons he stated. But what about the second purpose?

Mr. SHARP. Mr. Speaker, the second purpose is only slightly achieved, and this is one of the problems that makes this rule unattractive to some who are voting today to veto the rule because they believe it does not provide enough shielding. There are others who are voting against the rule for a variety of reasons, most of which I have indicated before.

But the shielding at the moment is about $2.50 under phase I, and possibly less at this point for the residential user because of the soft oil market.

By the fall, if there is a tightening of the residential fuel oil market, that may get to a high of $8. The maximum shielding expected at the moment for the residential user, might be as high as $10 on an annual basis, but that is unlikely. That is for the average user. The smaller user would face a benefit less than $10. The family that has the really big house, which in many cases will be the high-income family, will get a better shielding out of it than $10.

□ 1500

Our problem is that, while it is true it provides some shielding, and $10 is a nice sum of money for everybody, it really is not very much and, at the same time, it focuses a burden on the industrial sector at a time when many of us have growing concern about the risks of keeping up employment. And so because the benefit is spread so thin, it is a very small benefit from an individual's point of view. However, the burden is fairly substantial on some industries, particularly in glass and steel and some other industries that are in difficulty now. That is the problem.

Mr. ECKHARDT. If the gentleman will yield further, the gentleman indicates that we may go back to this question, may consider another solution at a later time, may find it necessary to take some action in the nature of this rule but with variation. But as I understand it, this rule was mandated to come out under the bill.

Mr. SHARP. That is correct.

Mr. ECKHARDT. That is the reason it is before us.

Mr. SHARP. That is correct.

Mr. ECKHARDT. If we reject the rule, is there any mandate that any subsequent rule be presented to us or is the laboring oar and the laboring authority solely with the agencies so that if we want further action we will have to pass a bill to achieve it? What I am saying is, if we turn the rule down at this time, are we saying, "OK, you have done everything we required," and from that point on the agency is not required to take any further action to present us with another unaltered rule, no matter how the facts change; is that correct?

Mr. SHARP. It is my understanding that if we vote for this resolution and turn down the rule today, the agency must wait at least 6 months before it may issue another rule. It must wait. And it has a window that is from 6 months to 2 years after this date as to whether or not to issue another rule. But it is in the discretion of the Commission at that point whether or not to issue a further rule, at which time we will have an opportunity to review that one as well. But the gentleman is correct, the agency is not mandated to come forth with another rule.

Mr. ECKHARDT. So it is in effect off the hook?

Mr. SHARP. That is correct. The agency chairman did indicate that they are very concerned about what will happen in the natural gas pricing market, and that they will be examining this and other alternatives available to them as the markets change. But they certainly made no commitment to produce another rule.

Mr. ECKHARDT. I thank the gentleman.

Mr. PREYER. Mr. Speaker, will the gentleman yield?

Mr. SHARP. I yield to the gentleman from North Carolina, who is a sponsor of this resolution and has taken a very active role on this incremental pricing issue.

Mr. PREYER. I thank the gentleman.

Mr. Speaker, I want to commend the gentleman for his leadership on this issue, and I commend the gentleman further for the careful and realistic analysis which he has applied to this problem which this resolution addresses. I want to commend the chairman, the gentleman from Michigan (Mr. DINGELL), and all of your subcommittee for your very decisive action in resolving the problem.

Mr. Speaker, I am heartened indeed by today's decision that the phase II incremental pricing regulations promulgated under title II of the Natural Gas Policy Act of 1978 (NGPA) should be disapproved. Through this prudent and historic vote, the House of Representatives has prevented a major expansion of Federal regulatory control over State ratemaking and has, as a consequence, limited significantly the potential economic damage threatened by this regulatory nightmare.

I am, therefore, taking this opportunity to commend and congratulate my colleagues for their vigorous rejection of a theory overrun by reality. Had my colleagues not approved House Resolution 655, the phase II expansion of incremental pricing to most interstate industrial users of natural gas would not only have boosted inflation, increased unemployment and encouraged greater use of foreign oil, but would have done so at a time when our Nation's economy is already suffering from a recession.

Over 6 months ago I, along with my good friend DAVE STOCKMAN introduced H.R. 5862, a measure to repeal outright the unworkable incremental pricing title of the NGPA. Over 100 House Members now cosponsor this bill. I joined with Mr. STOCKMAN in introducing this measure because of the serious concerns voiced by the business community in North Carolina and across the Nation, the gas utility industry, State utility commissions, labor unions, and others.

I still share these concerns with regard to phase I of incremental pricing. Nevertheless, today's vote is a historic occasion not only because it signifies a giant step toward a national energy policy but also because by exercising a one-House veto, my colleagues have established an invaluable precedent for future legislators. The House has demonstrated, in the clearest terms, that Congress intends to meet its responsibilities for careful oversight of—and, if necessary, disapproval of—those regulatory policies which implement congressional legislation.

The drafters of the NGPA were prophetic in wisely deciding that since they did not have a crystal ball to gaze 18 months into the future, the Congress should have another look at this exceedingly complex regulatory mechanism known as phase II incremental pricing when the rule was finalized. And today's vote provides ample evidence that the drafters were right to take a second look—times did indeed change and, as a result, implementation of the phase II incremental pricing regulations is not in our Nation's best interests.

I would also like to express my appreciation for the deep concern and decisive actions taken by the chairman of the Energy and Power Subcommittee Mr. DINGELL, House Commerce Committee Chairman, Mr. STAGGERS, and the members of the Energy and Power Subcommittee and of the Full Commerce Committee, on which I am privileged to serve. Without the sincere concern and decisive actions of these members of the House, the phase II resolution of disapproval would have faced a much more difficult path on its way to the House floor.

Finally, I wish to commend the Commissioners and staff of the Federal Energy Regulatory Commission (FERC). Although I labored to secure a veto of the phase II regulations drafted by these FERC officials, they merit my deepest respect for their efforts to fashion the most reasonable possible implementation of an exceedingly complex law. For their hard work, intellect, flexibility and honesty, the personnel of the FERC deserve our thanks.

I am particularly proud of the efforts made by industry, labor, and others to express to the Congress their concerns with incremental pricing and the need to eliminate this unwarranted regulatory burden. However, for these groups and my colleagues who have joined in seeking the outright repeal of title II of the NGPA, our work is not yet done. As I mentioned, phase I incremental pricing, which was not subject to congressional review, has been in effect since January of this year.

Members of Congress have already received many calls and letters detailing industries switching to other fuels (particularly fuel oil) and with complaints about the methodology used by the Energy Information Administration to set the alternate fuel price ceilings. I intend to continue monitoring developments under phase I and, from time to time, to bring them to my colleagues' attention. The American Gas Association has informed me that, based on data for the first 4 months of 1980, the industrial boiler load loss attributed to phase I could total 226 Bcf this year if the switch from gas to oil continues at its current rate. Hopefully it will only take a year of experience under phase I to demonstrate the need to repeal title II of the NGPA altogether, particularly since there has been a dramatic turnaround in the outlook for long-term gas supplies.

Increases in proved reserves of 14.3 Tcf are at a 13-year high, up over 35 percent from a year ago. Not only did these 1979 additions to reserves significantly increase from the 7 to 12 Tcf levels experienced throughout the 1970's, but the increase in additions was widely distributed throughout all regions of the country. This is the most positive evidence yet that the production incentives of the NGPA are working to the benefit of consumers as well as producers.

Thank you, Mr. Speaker.

Mr. LUNDINE. Mr. Speaker, will the gentleman yield?

Mr. SHARP. I yield to the gentleman from New York.

Mr. LUNDINE. I thank the gentleman for yielding.

Mr. Speaker, I wish to commend the gentleman for his analysis of this problem.

Mr. Speaker, I have decided to join in support of the resolution before us disapproving implementation of the phase II incremental pricing rule that has been proposed by the Federal Energy Regulatory Commission under section 202 of the Natural Gas Policy Act. I have made this decision after having given careful consideration to both the overall energy and economic situation which we find ourselves in today and the specifics contained in the particular manner in which FERC chose to propose implementation of incremental pricing beyond application to large industrial boiler users under phase I.

I supported the Natural Gas Policy Act when it was given final approval by the Congress in 1978. As you know, this bill provided for the phased deregulation of natural gas prices through 1985. I supported this measure with the understanding that consumers would be shielded as much as practicable from increasing gas costs as natural gas prices were deregulated through implementation of an incremental pricing system that would allocate a higher percentage of natural gas price increases to low priority industrial users. I believed this to be a sound compromise and continue to agree that our national energy policy must provide avenues to minimize the burden on residential and commercial users from increasing energy costs.

It is ironic, if not important, to note that many of the same industries that are likely to feel severe impacts from phase II incremental pricing were strong advocates of immediate deregulation of natural gas prices in 1978 which would have likely resulted in higher overall natural gas prices than those estimated under incremental pricing. This fact signals the very serious nature of our energy problem as we try to apply theory to practical situations.

The decision before us today, however, must in the end, take into consideration the relevance of widespread adoption of incremental pricing to our current economic circumstances and the fairness and benefit to those involved from such action. By providing for a procedure that would allow Congress to disapprove of phase II incremental pricing as part of the 1978 act, Congress acknowledged the possibility that changed national circumstances could call into question the appropriateness of broad based incremental pricing.

Several significant factors have changed since passage of the 1978 act that have a direct bearing on our decision today. Since enactment of the 1978 act, world oil prices have escalated beyond what anyone had projected, thereby increasing the cost of incremental pricing to industries. In addition, the relative tight supply situation with natural gas present in 1978 has evolved to a point today where natural gas supplies are adequate, if not abundant, in most areas of the country. As such, continued adequate supplies of natural gas can perform the price moderation function intended for incremental pricing during periods of supply constraint.

My opposition to implementation of phase II incremental pricing is based on a conviction that it would have an adverse and uneven effect that might possibly exacerbate the current downturn in our economy, leading to further job losses in certain industries. I think it is important that we work toward providing an element of stability to the tenuous situation being posed by economic circumstances. An important element in this must be an assurance of a stable energy source at projectable prices.

As important, though, must be the estimated cost savings to the residential user from implementation of phase II incremental pricing. Reliable estimates I have been provided indicate that the average savings to the residential customer would probably not under any circumstances exceed $25/year. While this certainly should not be dismissed as totally insignificant, it must be viewed in the context of the offsetting impacts on industry and jobs. Moreover, the actual savings to residential natural gas users from incremental pricing could possibly evaporate if industrial users choose to switch to use of alternate fuels that could leave residential customers with the percentage of fixed gas costs now paid by those industrial customers.

In summary, the issue of incremental pricing, as with most other energy issues, comes to a determination of how to allocate in a fair manner the increasing cost of energy for our country. Steps should be taken to minimize energy costs for classes of users least able to adjust to them, but I am convinced that broad based implementation of incremental pricing at this time is not the most effective way of accomplishing this objective. Benefits to residential users from this rule would be minimal, costs of administering a program of incremental pricing would escalate, and the inflexibility of application of the increased energy costs to industries would further exacerbate the serious situation with strained capital resources present today in most of our industries.

For all these reasons, I urge adoption of this resolution disapproving implementation of phase II incremental pricing.

Mr. BROWN of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, the Nation faces inflationary costs for goods and services, less economic growth and more unemployment. With the next vote, Congress can aggravate this situation or give Americans some relief from the bad economic picture. Extended incremental pricing would add further injury to the already suffering American consumer.

When the Natural Gas Policy Act was passed at the end of the 95th Congress, many Congressmen sought to artificially hold down the heating costs for residential and commercial users. Lower costs for residential consumers were to be achieved by business paying higher costs for natural gas.

During the debate on the Natural Gas Policy Act in October 1978, I pointed out that incremental pricing would be detrimental in the long run because industry would shut down because of higher fuel costs or pass cost increases on to consumers. Here is what I said:

> The lowest priority in the bill is for the industrial users of natural gas. The extra cost of high gas prices will be borne by the industries which are served by interstate pipelines. The homeowners will continue to have a low heating bill while the industrial plants will bear the extra financial burden of reduced consumer costs. Plants will close down as over half of the natural gas is used for industry. Workers will be able to stay at home in a warm house, but without a paycheck.
>
> In addition, this incremental pricing will increase oil imports, not reduce them anywhere near the 4.5 million barrels a day the administration originally proposed. The Wall Street firm of Smith, Barney, Harris, Upham and Co. recently completed a study which predicted that the gas bill would actually increase imports by 2 million barrels a day by 1985. The analysis predicted that the heavy burden placed on industrial users will force them to switch to oil. With the short supply of domestic oil caused by price controls, most of these industries will increasingly depend on foreign imports for their fuel.

FERC's phase II rule would extend incremental pricing to more than 60 percent of the interstate market, more than 55,000 additional industrial customers. There are at least three negative effects of this legislation: First, market manipulation; second, increased oil imports; and third, higher consumer prices; all of which we can ill afford in 1980.

In its final phase II rule, FERC admitted incremental pricing did not "appear to generate the type of demand restraint that Congress thought." Only by cutting their takes drastically, can industries with little capacity to switch to alternate fuels hope to influence pipeline bidding. By continuing to manipulate the market Congress would create a situation in which interstate pipelines would suffer a load loss, leaving residential consumers alone to bear the burdens of pipeline fixed costs and increased natural gas prices under the NGPA.

Second, expanded incremental pricing could substantially increase our level of oil imports. Back in 1978, some argued that natural gas prices would rise about

65 percent for industrial customers from $2.10/Mcf. to $3.50/Mcf. due to being tied to deregulated oil prices. Since the Iranian catastrophe and skyrocketing oil costs, the ceiling price that can be charged to industrial users now equals $6.80/Mcf., a 225 percent increase. If they have the capability to use oil, industrial users are likely to switch from natural gas since oil will cost the same, but will not be subject to priority designations and possible supply cut-offs like natural gas is. America is already importing $90 billion a year in foreign crude oil and we do not need to add to our oil deficit.

Third, the most immediate effect of incremental pricing to be felt by the individual citizen will be increased product costs. Industrial users must pass their increased fuel costs on to the ultimate consumer. If they cannot, they will be at a competitive disadvantage, particularly in relation to foreign firms. This could result in job layoffs for U.S. firms. These increased costs will hit all consumers. Whereas, the intended benefit to the 45 percent of the population which uses natural gas at home is estimated to be a mere $23 per household. Once again the majority is penalized to bring minimal benefit to only a portion of the populace.

The folks back home realize that we cannot help our communities by crippling American industry. Industry means jobs and lower prices for mass-produced products. Incremental pricing hurts business and when you hurt business you hurt the guy who works for a living. Our country has more government than it wants, more regulations than industry needs and more taxes than the people can afford to pay.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 655 which would disapprove the extension of incremental pricing.

I have a great sense of deja vu as I stand here in the well and speak to you about natural gas pricing. Those of my colleagues who were here in 1978 remember all too well the arguments, pro and con, on the Natural Gas Policy Act.

Incremental pricing, the cost reallocation scheme required by that act, is the subject of our debate today. Incremental pricing, a two-phase cost reallocation scheme, was intended to load the largest impact of higher natural gas prices upon industrial gas users served by interstate pipelines.

Currently, under phase I, which has been in effect since January 1, 1980, only large industrial facilities which use natural gas as a boiler fuel are subject to incremental pricing. Higher gas costs are passed on to those facilities in the form of surcharges on gas consumed as boiler fuel.

Phase II would extend incremental pricing to all industrial users—including process and feedstock users—which are not specifically exempted by the Natural Gas Policy Act of 1978. Two major objectives originally led Congress to include incremental pricing as part of that act. The first was to provide a "market ordering" device designed to achieve an orderly transition from regulated to deregulated gas markets. Second, incremental pricing was to serve as a mechanism to shelter the consumer from increased natural gas prices.

It is now apparent that phase II will satisfy neither of these objectives. As the Commission has stated itself in the rule, the structure of title II makes it impossible for incremental pricing to act as a market ordering device. The major reason that incremental pricing will not serve to restrain pipeline bidding for deregulated gas is that industrial end users who have little or no capability to switch to alternate fuels, that is, most feedstock and process gas users, the users covered by this rule before us, are in a relatively weak position to bargain with pipelines over the price that they will have to pay for natural gas. That is, where an industrial user does not have alternate fuel capability, there is little or no incentive on the part of a pipeline to keep its bids for natural gas down.

The second objective of incremental pricing—protection of the residential gas consumer—also will not be served by this rule. Incremental pricing singles out less than one-half of all residential consumers, those served by interstate natural gas pipelines for preferential treatment. Those residential users who do not use natural gas but who use fuel oil, propane, electricity, or other fuel instead of gas, will receive none of the benefit that will result from incremental users paying incremental service charges. Thus, all consumers would pay higher prices for goods and services in order that a few residential interstate natural gas consumers get what is, at most, a slight reduction in their gas bills. Low income, nongas users will, in part, be subsidizing more affluent gas users, and homeowners who do not use natural gas will subsidize natural gas used by other high priority users such as small commercial establishments and apartment buildings which are exempt from incremental pricing. In short, incremental pricing has disruptive and inequitable impacts which work ultimately to the disadvantage of the high priority consumers whom title II is intended to protect.

Two years have passed since the NGPA was enacted. The energy world has changed dramatically. The 1978 assumptions behind incremental pricing have proven inaccurate. Congress, in its wisdom, wrote into the law an opportunity to review and disapprove any extension of incremental pricing beyond industrial boiler fuel uses of natural gas. That disapproval is what we are here to register.

Incremental pricing cannot achieve an ordering of the natural gas market as we move to decontrol. The process and feedstock users have no alternative fuel, and they cannot restrain pipeline gas bids. The other industrial users, once they reach the alternative fuel cost ceiling, know that they will not be priced any higher and have no reason to try to restrain pipeline bidding. Also, in a free market, surplus gas could be sold cheaply. But under incremental pricing, suppliers have no incentive to lower their price to nonexempt users because the incremental pricing surcharge will again distort market signals.

In fact, incremental pricing is distorting the natural gas market more now than deregulation might in 1985. The preventive cure is worse than the potential illness. Moreover, when the cost of administering the incremental pricing program is taken into account, any advantage which the cure might have held is clearly outweighed by its costs.

Incremental pricing will also distort the consumer market. Although the second major purpose of incremental pricing was to shelter high-priority users of natural gas, the result has been that some consumers are protected slightly, while most are injured. FERC has estimated that incremental pricing will result in a benefit to exempt users of only about 18 cents per Mcf. FERC concludes that "incremental pricing under title II is a 'blunt instrument' for achieving the socioeconomic goals Congress sought to accomplish via price sheltering."

Incremental pricing subsidizes all residential gas users, regardless of economic need. Other residential fuels, oil and electricity, are currently more expensive than gas. Homeowners using those fuels will receive no subsidies. Neither will homeowners served by intrastate gas. Yet, they, as well as all consumers, will pay the increased costs of consumer goods made by gas-dependent industries subject to incremental pricing. Those industries must either raise their prices or shut down. If they are in highly competitive markets, they may not be able to recover their increased costs. This is especially true for companies competing internationally.

While the NGPA does not provide for a review of the entire system of incremental pricing, I believe that we must avail ourselves of an early opportunity to review and repeal all of title II incremental pricing. The facts make it clear it is an inequitable and unwieldy system which does not achieve either of the objectives which Congress sought to achieve—that is, market ordering and price shielding.

I believe that incremental pricing has no place in a scheme for the deregulation of natural gas. The overwhelming vote to disapprove phase II, which I believe will occur this afternoon, should be a clear message to the FERC not to send up another incremental pricing rule. It also is a clear indication of congressional desire for repeal of entire incremental pricing provisions of the NGPA.

□ 1510

Mr. Speaker, I reserve the balance of my time.

Mr. SHARP. Mr. Speaker, I yield 10 minutes to the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Speaker, I agree with the gentleman from Ohio. There is

a sense of deja vu here, but I part company with the gentleman's conclusions.

It is very interesting to go back into the history of this lengthy conference in 1977 and 1978 and to look at some of the documents that were handed out and which I think form the strong foundation for influencing Members in the way in which they voted in 1978, particularly those who were concerned about the residential prices for natural gas.

Here, for example, is an administration fact sheet. We have all seen administration fact sheets before. It states very emphatically:

Under any reasonable projection of the existing regulatory program, residential users will pay less for natural gas between now and 1985 under this compromise—the one that was finally passed—than they would under a continuation of the present system of controls.

This administration fact sheet went on to say:

This natural gas bill affords special protection to residential consumers in the interstate market through the "incremental pricing" provision that first passes through the industry the costs of natural gas that exceed the current FERC new gas price of $1.50 per mmbtu. There is a slightly higher threshold for certain types of high-cost natural gas, but the impact of that provision will be offset by the decrease in unit fixed transportation costs that will result from significantly larger gas supplies in the interstate market.

Then, the distinguished subcommittee chairman of the Subcommittee on Energy and Power, the gentleman from Michigan (Mr. DINGELL), who has been a strong advocate of incremental pricing and was the major force, with the gentleman from Texas (Mr. ECKHARDT), in getting the strong incremental pricing provisions into the compromise that was finally passed by this House in 1978, testified before FERC on January 29, 1980, and stated in the most emphatic terms:

Without incremental pricing, the ability of gas-hungry interstate pipelines to average-in comparatively small volumes of deregulated supplies of new gas with far greater volumes of cheaper old gas would result in bidding wars between pipelines for new gas supplies.

Incremental pricing solves this problem by focusing initial price increases on the pipelines' most price sensitive customers: the historically underpriced industrial users.

He goes on and on.

In this January 1980 statement he refers to a May 2, 1978, statement in which he stated:

A statement I released to the press on May 2, 1978 is further evidence that incremental pricing was intended to be a surrogate for well head price controls as a market order mechanism.

First, I said that "meaningful incremental pricing was an essential prerequisite, a sine qua non, to my acceding to deregulation.

Second, I said that "incremental pricing was viewed by opponents of deregulation as an essential substitute for wellhead price controls as a wellhead market ordering device.

And he goes on and on.

The intent of the gentleman from Michigan (Mr. DINGELL) and the gentleman from Texas (Mr. ECKHARDT), and I think many of those who voted for that natural gas compromise in 1978 was in fact to have some protection for consumers. It can be said, and I believe that I am not mistaken when I say that the author of this resolution, the gentleman from Indiana, has argued that FERC could later come in with another rule and take care of incremental pricing; but despite the strong testimony of the distinguished chairman of the Subcommitee on Energy and Power before FERC, and despite the language of the proposed rule issued by FERC, in which they say the Commission is highly cognizant of its mandate to afford high priority consumers the full measure of the price consistent with the purposes of title II and they believe this protection is best achieved by maximizing the volume of gas used subject to incremental pricing.

Despite all these things, despite the protestations of the author of the resolution and others during the natural gas debate, the fact is that residential prices for natural gas will continue to be set above those paid by industrial users, and industry will be bailed out from its earlier promises to pay whatever the necessary cost if they can just get the natural gas.

Now, I think it is important that we recognize that most of the industrial people who are now heavily lobbying us to protect them under this resolution are the same people who have sung the virtues of deregulation to us for months and years.

They have come in and said, "Oh, deregulate. We think it is wonderful. Let the market work its will."

So now, we are hearing that they do not like the high prices that would come and they want some protection.

Well, it can be said that this rule actually affords little protection to consumers. It is my understanding that at least one consumer group feels that way and would urge a vote against the bill, but I think it is important here to note the principle that has been withering away from the 1977 House-passed bill, in terms of incremental pricing.

What did that withering away involve? First, the conference report confined incremental pricing to only a fraction of the low-priority users. Then it exempted intrastate users from incremental pricing. Then it required only a portion but not all of the increases in the House-passed bill be put in the incremental pricing pot.

Finally, it allowed FERC to set threshold prices lower than that of No. 2 oil, even if the alternative fuel for that industry was No. 2. The phase I rule again diluted the effect of incremental pricing by setting a 3-year threshold but delaying that for a year and allowing the lowest-priced fuel, high-sulfur No. 6, to be used as a threshold.

□ 1520

Phase II, as proposed again, emasculates the concept of incremental pricing, and I think the gentleman is right about this, by exempting the first 300 Mcf. of nonboiler fuel use, setting the ceiling at high sulfur No. 6, and allowing States to allocate surcharges above 75 cents to other incrementally priced users.

It would appear that FERC thus came to the weakest rule possible, and I think that has already come out in the debate. It is a rule that is so weak that in fact it might be hard to justify. I would admit that. It would probably save consumers in the neighborhood of $10 or $15 a year.

But we also have to realize that the principle of incremental pricing is at stake here and a weak rule for some use is better than no rule, and a weak rule that can be improved is better than no rule. We must understand that we are doing this with something looming over us in the not too distant future, and that is the likelihood of a massive lobbying effort for the total deregulation by the same industry people who are asking for your help on the incremental pricing provision. There is no question we will have a massive lobbying effort.

Now, it has also been said that now is not the time to do this because of inflation and hard times for business. First of all, residential consumers are subjected to inflation in a much more brutal way than business. Second, it is dubious that there will ever be a chance to expand incremental pricing again if FERC does not come back with another rule, and there is no assurance of that, if the administration and the Congress elected in January are more conservative on this issue than we are which I think is a likely occurrence.

It is also important to remember with regard to this argument, that the real benefits of incremental pricing, and I think the author of the resolution would agree with this, the real benefits of incremental pricing come not today or next year but in 1985 when deregulation occurs and the market ordering benefits of incremental pricing are truly needed.

It can also be said, and it has been said that it is unfair to make industry pay, having one class of users subsidize another. In fact, even with incremental pricing under phase II, under this rule industrial users, as I understand it, would still pay lower rates than residential users. Despite the promises of consumer protection, the disparity between industrial and residential rates has increased since the natural gas compromise was passed.

According to AGA's (the American Gas Association's) monthly gas utilities statistical report, industrial prices were $1.91 per Mcf. in 1978 and rose to $2.32 in the third quarter of 1979, an increase of 41 cents, or 21 percent. Residential rates during that same period rose from $2.53 to $3.59, an increase of $1.06 or 42 percent. The difference between the two rates rose from 62 cents to $1.27, for an increase of 105 percent.

The SPEAKER pro tempore (Mr. NEDZI). Time of the gentleman from Connecticut has expired.

Mr. SHARP. Mr. Speaker, I yield the gentleman 5 additional minutes.

Mr. MOFFETT. Mr. Speaker, even apart from the disparity, it does not seem unreasonable to ask the industry which lobbied so hard for decontrol so that it could obtain new supplies, to pay a higher price for that privilege.

Finally, it is said that incremental pricing is not needed since prices already have risen above what the conferees anticipated. This argument is true in that the conferees did not anticipate that sudden surge in oil prices. But it is also true that the conferees did not anticipate inflation at 18 percent.

Instead, the analysis, as my colleagues may recall, of the costs of deregulation of natural gas were based on a 6-percent inflation rate. This series of unanticipated events argues for an entire overhaul of the Natural Gas Policy Act and a setting of lower rates for all users, not just the decision to protect only one class of user from higher rates. What we essentially have is the protection of the interests with the greatest lobby, and I do not begrudge them that or deny them that. I do not think we want to tinker with the first amendment. They can come in here and lobby. But they hang over our heads as Representatives the very real threat of job losses, and we cannot blame them for that. I have heard it from my own industrial constituents.

But they have the most powerful voice. We are not hearing from residential consumers nearly as much as from industry, and these are the people that are really hurt by these price increases. Let us make no mistake about it. We are about to take a semblance of protection, a minor bit of protection away from them and open the door, open the floodgates to a major bid for total deregulation in the very near future.

Really, I do not think this is a pleasant choice and I think there are many Members on both sides of the aisle who are being hit by both sides. In my own region we happen to use oil more than gas. But I have industrial gas consumers and I am worried about them. I am worried about the people they employ.

The Northeast is going to feel the recession more than any other part of the country. It is the first place it hits and the last to get rid of it. But either we are going to stick to the principle of incremental pricing and some semblance of consumer protection or we had just better get on with the debate of total deregulation which I know some of my friends would like, total deregulation without these pieces of gimmickery laying around here. We did it with the windfall profits tax, a total piece of gimmickery which gave the impression of protecting people. And in a sense that is what incremental pricing is becoming, another piece of gimmickery, another illusion of protection for consumers.

If we are going to whittle it away and not have a solid rule to follow up on the clear intent of the conferees as expressed by our distinguished subcommittee chairman, the gentleman from Michigan (Mr. DINGELL) then let us just get rid of it. But let us understand that a vote, at least in my view, a vote for the resolution of disapproval does back us away from a strong stand on incremental pricing. There is no mistake about that.

I know the gentleman from Indiana (Mr. SHARP) has the best of intentions and the most honest motives in this, but I do think it is a fact that it does back us away from the principle, even though this rule is a mediocre rule at best, which I think the gentleman said was really put together because they were in the position of having to put the rule together. I do not think their heart was necessarily in it. That is regrettable. But it is a mediocre rule at best. The resolution of the gentleman from Indiana (Mr. SHARP) is going to fly through here. There might not be 20 of us who vote against it. I would be surprised if there were 20 of us who voted against it.

But let us understand what we are doing. That is all I ask. We are backing away from the principle as articulated so strongly by the gentleman from Michigan (Mr. DINGELL) and by the gentleman from Texas (Mr. ECKHARDT) as they fought for consumer protection along with the gentleman from Indiana (Mr. SHARP) in the final stages of the conference on the Natural Gas Policy Act.

Mr. Speaker, I thank the gentleman for yielding and yield back the balance of my time.

Mr. SHARP. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I rise in support of the resolution disapproving the proposed FERC ruling on incremental pricing of natural gas. The Commission has failed to carry out the intent of Congress in their phase 2 plan. Let me make it clear that I do not share the view of some of my colleagues who want to totally abandon incremental pricing. To the contrary, I oppose the FERC rule because it is not strong enough to adequately protect residential gas users from the advent of steeply rising energy prices.

I have long been an opponent of natural gas price deregulation because of the severe and unacceptable impacts it will have on energy consumers nationwide, particularly on those individuals who are already on the margin from day to day. It is the clear intention of Congress in the incremental pricing provisions of the Natural Gas Policy Act to shield residential gas users and other high-priority customers from rapidly escalating gas prices for as long as possible. The rule before us today falls seriously short of this mandate.

Deregulation means rising energy prices—plain and simple, and unfortunate. But these costs must be borne by someone. Residential gas consumers are paying the price of deregulation. Let me illustrate: Roughly speaking, the 1978 price for residential consumers of natural gas was $2.53 per million cubic feet, the 1979 third quarter price was $3.59/Mcf; this represents a $1.06 increase. In comparison, the 1978 price for industrial users was $1.91 and the third quarter price was $2.32/Mcf; only a 41-cent increase.

The residential user is paying for natural gas deregulation. I am not advocating that industry pick up the entire deregulation tab, rather, that industry share this burden of higher prices with the residential customer by way of a fair and equitable incremental pricing scheme. It was the judgment of Congress in 1978 that incremental pricing be part of phased deregulation, and while I remain opposed to lifting controls, a fair and equitable incremental pricing rule is the best we have got at the present time.

My expectation is that FERC will come back to Congress with a rule more in line with the prescriptions set forth in the Natural Gas Act. Such a rule should: one, set the alternative fuel price at the equivalent of No. 2 heating oil, or at a minimum FERC could resort to its three-tiered pricing scheme. The proposal before us, setting the alternative fuel price at No. 6 high sulfur oil is unacceptable and a clear indication that FERC has caved in to industry pressure to write a rule of little effectiveness. Second, the FERC interpretation of the law allows State public utility commissions to evade the authority of incremental pricing thereby rendering incremental pricing meaningless. In promulgating a new rule, FERC must not allow its authority to be undermined by local utility commissions.

Moreover, under the present rule the Commission exempts 300 Mcf. per day of gas for nonboiler fuel industrial users so that as a result residential consumers are insulated only in the most minimal sense from the accelerating prices allowed under the provisions of title I of the act.

The Natural Gas Act has many provisions that I find harmful to the public interest. At least, however, the incremental pricing scheme as envisioned by Congress in 1978 did provide residential consumers with a modicum of protection from the excessive increases allowed in title I. It is for this reason that Congress must insist that FERC carry out our will and not act as it has, in subservience to the interests of the large industrial users of natural gas.

□ 1530

Mr. MOFFETT. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Connecticut.

Mr. MOFFETT. I thank the gentleman for yielding. The gentleman and I do not part company on issues like this very often. It puzzles me, though, about the gentleman's conclusion on this. I agree with his speech on the importance of incremental pricing, but does the gentleman really believe that the legislative history stemming from this debate and consideration in the subcommittee and the full committee is going to lead the people down at FERC to say, "Gee, we really blew it. We came up with a mediocre, weak rule, and it is obvious that Congress is leaning on us now to come up with a stronger incremental pricing rule."

Come on, the gentleman knows the record is going to show that particularly with this vote, which the gentleman apparently plans to add his vote to, there is an overwhelming, lopsided margin disapproving the rule. The message is going to be loud and clear: anti-incremental pricing. Do not come back here with another rule, FERC. That is what I am concerned about. I wish the gentleman could put my fears to rest on that point.

The SPEAKER pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. MARKEY was allowed to proceed for 2 additional minutes.)

Mr. MARKEY. I am in no position to allay the fears of the gentleman from Connecticut. What I am saying is that this particular rule that has been passed by FERC is an insult. It is an absolute, complete, and total repudiation of the legislative intent of the work that the gentleman and many others worked long and hard in 1978 to put together. I am saying if there is a rule to be passed, then this is not it. All right. And we are almost better off going back to square 1, trying to fight it out in the trenches again, with the help of the chairman of the Subcommittee on Energy and Power, rather than this, which is just a crumb tossed at our feet, saving the consumer at the most perhaps $10 or $15.

Mr. MOFFETT. If the gentleman will yield further, that crumb the gentleman is talking about will disappear from the table very fast—very fast—and in fact we will be here, the gentleman and I, and a handful of others, fighting against total deregulation in a very short time. The gentleman knows that is correct. This is a step in that direction, whether or not the author of the resolution intends it, and I do not think he does. The point is it is a step in that direction. That is going to be the net effect. That is going to be the legislative history. That is going to be the message to an already weak FERC on this issue.

Mr. MARKEY. What I am saying is there are two ways to do this. Either you can say it is too strong or it is too weak. I concur with the gentleman, it is too weak, but I am not willing to concede that we are not going to be able to be successful in convincing FERC or in convincing the administration that they do have to make a commitment to the residential gas consumer in this country, and he has to come back with a measure which gives him some protection against the ravages of inflation and the escalating energy costs. So I am saying let us go back and try to fight it out again. The gentleman is more pessimistic about this administration, with good reason.

Mr. MOFFETT. If the chairman of the Energy and Power Subcommittee, with the strongest possible statement in favor of incremental pricing, could not convince them, I do not think the gentleman from Massachusetts or I could.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GRAMM).

Mr. GRAMM. Mr. Speaker, I would like to make a couple of points and will do it briefly.

First of all, incremental pricing cannot protect the consumer. The question we face is how are you going to pay the higher prices dictated by the market for natural gas. We can do it by paying higher prices at the consumer level or indirectly by paying higher prices for goods and services, paying higher prices through lost jobs, or paying higher prices through slower economic growth.

Second, the assertion that Government can order the market by having a dual price for a homogeneous product is ludicrous. The way to order a market is to let the market set the price, to let a homogeneous product sell for the same price everywhere regardless of who the buyer is.

Finally, I agree with the gentleman from Connecticut (Mr. MOFFETT). What we are doing here does have implications for phase I, incremental pricing. Every argument that has been made in committee, every argument that has been made on the floor against phase II is equally applicable to phase I. I am hoping that this is a forerunner of things to come. I hope that we are in fact going to order the market and do so by deregulating the price of natural gas to provide a stimulus for increasing production and by getting the Government out of the business of having a dual market for a homogeneous product.

I thank the gentleman for yielding.

Mr. STOCKMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, our purpose today is simply to lay to rest by the agency of legislative veto a dubious regulatory experiment that has been overtaken by the rush of events and unanticipated developments.

Before I try to sketch very briefly some of those unanticipated developments, I would like to respond to the statements that were made by the gentleman from Connecticut, because the essential thrust of what he was saying is that it is time for a number of people to eat crow, and he read statements that were issued during the natural gas debate in 1978. He pointed out that prices have turned out to be far higher than were anticipated and that the incremental pricing rule is not providing nearly the amount of shielding that was promised. I would only remind the House that in these kinds of matters there is probably enough crow to be passed around to all parties involved.

I can also remember during that same debate the argument was made over and over by the gentleman from Connecticut and some of his allies that if we deregulate the field price of natural gas, there will be no response on supply, that the price will go up, the supply will remain the same, and producers will be enriched with no benefit in terms of additional energy supply. We are only into this experiment now for a little over a year, but we can see dramatically the evidence points the other way.

Last year there was an enormous surge in drilling at the field level for oil and gas. The number of rigs operating, the number of wells drilled, was up 20 percent or better. But the most impressive thing is that the numbers are now in, and last year we discovered nearly 15 trillion cubic feet of natural gas in this country, almost 75 percent of what we use.

That is a dramatic contrast to what we were discovering in the early 1970's when our new reserve addition rates plummeted to as low as 4 or 5 trillion cubic feet a year, or less than a quarter of what we were consuming. So we see that just 1 year into this experiment, and given all the problems of lead times and of mobilizing the equipment at drilling sites, the seismic data, and so forth, even despite those short-run restraints, we still had an enormous increase in new reserve finding last year. And the record this year looks like it will be even more impressive.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. STOCKMAN. I would be happy to yield to the gentleman from Indiana.

Mr. SHARP. I thank the gentleman for yielding. I think it is important to indicate here that this increased availability of gas is good for American consumers. That it is not an anticonsumer activity. That it means our consumers are going to have gas over the next few years to heat their homes, to keep their factories operating, and that has got to be a high priority in this country for our consumers, for the entire economy, and for our national security. So I think we have got to get rid of this notion that just because we do something that might give an incentive in energy production, we somehow have hurt the consumer in the process.

□ 1540

Quite the contrary. We have these interests working together many times, not just against each other.

Mr. STOCKMAN. I appreciate the gentleman's comments and I could not agree with him more but I think my basic point was, sure, 2 years ago we could not predict everything accurately. Everyone made a lot of mistakes. But in terms of the bottom line of the whole Natural Gas Act, getting more supply, the act is working. Today we are dealing only with a marginal or a secondary aspect of that legislation and therefore we need to move ahead with this resolution of disapproval.

Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Speaker, I thank the gentleman from Michigan for yielding.

Mr. Speaker, I rise in support of the resolution. It is clear to me that if we allow phase II of incremental pricing to take effect, the industrial States of the Northeast and Midwest will suffer additional job migration to the Sunbelt States where natural gas is cheaper. This same conclusion was basically reached by the Northeast-Midwest Institute who, at my request, did a study on the regional impact of incremental pricing.

The institute found that since most of our natural gas is produced in Texas, Louisiana, Oklahoma, and New Mexico, the industrial Northeast and Midwest must pay higher gas prices because of the cost of transportation of the gas. FERC's revised April price ceilings of March 1980 indicate that under phase I, the average ceiling price in the Northeast and Midwest was $3.26, while ceilings in the South averaged $2.92, and in Western States, $2.63. Phase II would increase energy costs for the industries in the

Northeast and Midwest to an even greater degree.

This increase would only add to the already existing incentives for plants to relocate to the incremental-pricing-exempt interstate markets of the Southwest. Further, new industrial facilities would certainly be more inclined to locate in the Southwest if phase II is implemented.

If phase II is implemented, it is possible that the purpose for which incremental pricing was originally enacted would be defeated. When the Congress passed the Natural Gas Policy Act of 1978, incremental pricing was conceived as a protection to residential users from the higher costs of deregulated gas.

However, I believe that implementation of phase II will, in fact, cause residential costs to increase. Residential customers use gas on a highly seasonal basis, peaking during the winter months and falling off during the summer months. Conversely, industrial consumption is not seasonal. A loss of industrial usage would therefore cause the price of gas to increase for residential users since distributors could no longer depend on a steady consumption of gas and since the transportation cost per unit would increase.

Phase II is so unpopular that FERC took the unusual step of submitting its proposals without formally supporting them. FERC submitted the regulations, in my view, only because the law required that action, and not due to an overwhelming amount of support for their implementation.

The evidence is clear that incremental pricing, while a good idea in theory, will prove to be a failure in practice. I strongly urge support of the resolution.

Mr. STOCKMAN. Mr. Speaker, I would just like to go over the ground opened up by the gentleman from Indiana a moment ago. The gentleman pointed out that the rationale for title II, for the incremental pricing program, was twofold. No. 1, it would serve as a market ordering device and secondly that it would provide a temporary shield for residential consumers against any increase in natural gas prices that might result from deregulation. That in effect it would hold down the price to residential users and it would slightly boost the price to those industrial boiler and nonboiler users who would be incrementally priced.

Mr. Speaker, the fact is that over the last 18 months we have indeed had a vast market disorder. In fact we have had outright turmoil and chaos but unfortunately that disorder and chaos did not appear in the regulated natural gas market, it took place in the world oil market and as a result if we were to go ahead today with incremental pricing rules as they were envisioned in 1978, we would be in effect tying the whole complex structure of regulated gas rates for industry, commercial, and residential users to a vastly changed price and a vastly changed market for alternative petroleum fuels that could not simply have been anticipated at the time.

Mr. Speaker, the original idea was that the reference price, the alternative price, would be No. 2 heating oil and, at the time that the conference report was agreed to, that was roughly in the range of $2.85 to $3 per thousand-cubic-foot equivalent. However, we find today, as a result of the unanticipated events last year, the total revolution in the structure of world oil prices, that the reference price for No. 2 would be $5 to $6 per thousand cubic feet and that we would be facing a wrenching 100-percent increase immediately in incrementally priced gas to industrial users.

Mr. Speaker, that is not the entire problem. The real problem is if we go ahead with that it would generate so much additional revenue from industrial customers to the pipeline companies and the distribution companies that it would result not merely in a temporary shield for the residential sector, but an indefinite freeze—a subsidy of rather massive proportions.

Of course, Mr. Speaker, that would confound that whole policy thrust of this Congress which has been to encourage conservation, better insulation, more improvement in the thermal efficiency of our residential structures. In addition to that, we would create a vast inequity between the users of different fuels for residential heating.

Today, those who heat their homes with electricity are already paying $8 to $10 per thousand cubic feet. Those who heat their home with No. 2 oil delivered to the house are paying $5 to $6 and yet if we went ahead with this incremental pricing rule, loaded all of the extra costs on to the industrial users, we would find that natural gas residential customers would be getting their fuel for half the price, for $3.50 per thousand cubic feet and they would have that low price assured rather indefinitely while those using electricity or home heating oil could anticipate nothing but further escalation in the future.

Therefore, Mr. Speaker, we are faced with an unanticipated dilemma: The increase to incrementally priced industrial users would be far higher than anticipated and that the gain to the residential user in terms of a freeze or rollback of prices would be far greater than expected. FERC simply took the easy way out, dropped the No. 2 reference price, went to far less expensive high sulphur No. 6 and that created problems of a different sort. It created a problem of having very little meaningful protection for the residential users as the gentleman from Indiana stated: $10 a year, $15 a year at most, but it also then would have hitched the industrial sector, in terms of the reference price or the alternative fuels price to the very volatile, disparate and variant price of No. 6 high sulphur oil throughout the various regional markets of this country. If one looks at the performance of that price picture for high sulphur No. 6 from one city to another, one region of the country to another over the last six months, and we have seen in some cases it has declined by $8 or $10 a barrel, it is pretty clear that we are simply asking for chaos in the national gas pricing structure if we attempt to tie it in lockstep fashion to that very volatile price.

Therefore, Mr. Speaker, the bottom line is very simple. The original assumptions have proved invalid, they were overtaken by events; the alternative formulation of this rule tied to No. 6 does not make sense because it will not achieve the original goal, it will cause unnecessary disruption in pricing in the industrial gas using sector and so therefore our only real alternative today is to simply scrap this contraption and avoid all of those unnecessary problems.

Mr. Speaker, I would point out one final thing and that is simply that this is our first real opportunity to deploy the legislative veto. Clearly we now have before us a regulation, a proposed rule or program that was not intended, even by the authors of this provision when it was adopted in 1978. This is precisely the circumstance under which the legislative veto is designed to be used. I think we ought to do it today in order to confirm that the legislative veto can be made to work and to correct an error in policy that would otherwise go into effect regarding the natural gas market if we do not approve this resolution.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. STOCKMAN. I would be happy to yield to the gentleman.

Mr. SHARP. Mr. Speaker, the gentleman has made some very important points. I know the gentleman's view actually is that we ought to repeal title II and while some of us disagree with that, does not the gentleman think that the Commission would be wise now, while phase I is still in operation, to go back and look at the possibility of tying that alternative fuel price to the gas market rather than to the oil market in an effort to try to minimize some of the yo-yo effect that we have had, at least to look at that and other options to help straighten out the value of phase I?

Mr. STOCKMAN. I would agree with the gentleman. It seems to me we need to look at some alternative reference standard because what we have essentially is a yo-yo, a jumping bean, something that really does not provide enough stability even to publish the quarterly figures that would allow the whole system to operate. I would concur in the gentleman's suggestion.

Mr. Speaker, I yield back the balance of my time as I have no further requests for time.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, first of all I would like to commend the gentleman from Indiana (Mr. SHARP) for the way in which he has presented this very important resolution. The gentleman has explained the reasons why the incremental pricing rule for phase II is inappropriate because of changed circumstances and the fact that it would be counterproductive to the basic goal which was sought to be achieved by the natural gas legislation passed in 1978.

Mr. Speaker, I think it is particularly noteworthy that we are utilizing the legislative veto as the method for accomplishing this purpose. The fact of the

matter is that this is the third legislative veto which the House will have voted on in the last 2 weeks, indicating that it is a useful and utilitarian method for correcting either mistakes or excesses of administrative agencies or to take account of situations which could not have been contemplated at the time the original legislation was passed. It is most meaningful that this is the case because we are soon, today I believe, to vote on landmark legislation which will incorporate a legislative veto for the Federal Trade Commission.

Mr. Speaker, I know there are some groups and organizations which have opposed legislative veto in principle. Coming to mind are groups such as the Consumer Federation of America and Congress Watch, the Nader organization, and therefore I am gratified to see that those two organizations have endorsed and lent their support to the legislative veto resolution which we have before us at the present time.

□ 1550

That indicates, as I have said all along, that legislative veto is a two-edged sword to be utilized not by any one segment of our society, but by any segment of our society that feels that excessive or improper action by regulatory agencies need redress.

The SPEAKER pro tempore. The time of the gentleman from Georgia has expired.

Mr. SHARP. Mr. Speaker, I yield 1 additional minute to the gentleman from Georgia.

Mr. LEVITAS. Consequently, while the Congress Watch Organization and the Consumer Federation of America may continue to protest that they are opposed to the principle of legislative veto. I think it is noteworthy that they have had no hesitancy whatsoever in utilizing the legislative veto approach when it serves their purposes as well.

The Congress Watch Organization would not characterize their position the same way I have. Therefore, I insert here their letter explaining their view:

PUBLIC CITIZEN,
May 20, 1980.

DEAR REPRESENTATIVE LEVITAS: It has come to our attention that some Members have misinterpreted our position on the incremental pricing rule that FERC has promulgated, and which is the subject of a resolution of disapproval today.

While we support efforts to require FERC to propound a far more consumer-oriented pricing rule, it should be clear that we have not endorsed and do not now endorse the concept of legislative veto. Indeed, Congress would not be in the position it finds itself in today—of having to tell FERC to go back to the drawing board—had it seen fit to carefully instruct FERC as to its wishes in the original 1978 law, rather than opting for the opportunity to veto an unguided FERC at some later date. Congress' abdication of its legislative responsibilities through the legislative veto device has wasted two years of FERC's time and consumers' money, and demonstrated once again the absolute disutility of such procedural shortcuts to effective lawmaking.

I hope this serves to make our position on these issues clear.

Sincerely yours,

HARVEY ROSENFIELD,
Staff Attorney.

However, the facts speak for themselves. Congress Watch does support this veto resolution while still protesting the principle. You can not have it both ways.

I commend the gentleman from Indiana, and I urge a vote in favor of the resolution and again show that the House overwhelmingly endorses the legislative veto.

Mr. SHARP. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I really am sorry that the question of legislative veto has been brought up in this context, because I do not believe that to support a legislative veto in a proper case, specifically drafted for a purpose, as this legislative veto is drafted, has anything whatsoever to do with the general right of legislative veto on any activity previously delegated to an agency. I voted for many legislative vetoes in connection with energy bills because, as in this case, when action was taken, the precise delineation of authority in a specific area could not have been thoroughly anticipated. There have also been cases, as in the general legislative veto under the Energy Policy and Conservation Act, where an energy action is made by which the agency says, "We will not exercise an authority which Congress delegated to us if Congress does not disagree in both Houses with our relinquishing that authority."

That is perfectly proper. It does not go to the whole question of legislative veto at all. I really regret that I have had to take this time on legislative veto, because I did not want to waste my time on that proposition. I do not think it has much to do with this measure.

Mr. Speaker, I intend to support the resolution of disapproval, and I must say that I have some trouble with that position for the reasons that were expressed by Mr. MOFFETT. But, I am convinced that we are dealing here with a much more complex question in applying incremental pricing in a field beyond the first phase than has been properly addressed or deeply enough addressed by FERC. That may be FERC's fault, as was indicated here by the gentleman from Massachusetts. FERC might have done a better job under its authority, but whether it could have or could not have is beside the point.

FERC's activity has been a rather blunt instrument that I think we cannot afford to permit to ultimately carve out a decision in a very delicate field. For instances, things like feedstocks are treated the same as other industrial materials. They are not the same.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. SHARP. Mr. Speaker, I yield 2 additional minutes to the gentleman from Texas.

Mr. ECKHARDT. We have always intended, under the act which we passed in 1978, to give special attention to the use of gas in its highest and best uses. We thought of those as being twofold: One, residential use; and the other, feedstock use. This is merely one example of FERC's having failed to address the question properly.

Now, I strongly disagree with Mr. STOCKMAN's proposition that time has shown us generally wrong in what we did in 1978. Indeed, time has shown us extremely correct. We have found, for instance, in my own area in the Southwest that to put some reasonable restraint on absolutely unrestrained gas prices has saved consumers in the Southwest $7 billion since the passage of this act. We have also ascertained a means by which intra- and interstate gas are generally priced the same.

We are dealing here, really, with the periphery of an act that has proved workable and has worked. I still believe that the committee should look into the question of incremental pricing and the extension of incremental pricing, and I believe that the committee will do so. Certainly, the Committee on Oversight and Investigation intends to do so, and I would assume, if the gentleman from Indiana can speak for his subcommittee, that they still retain extreme interest in this matter, and insist that what is done be done with precision and under circumstances which are dictated by the economics and the interests of the day.

Mr. SHARP. Mr. Speaker, if the gentleman will yield, I know the chairman of the subcommittee retains a great interest in this matter, and his remarks, which will be in the RECORD because he is now at a conference committee meeting on another energy bill, indicate that. So, I think the gentleman has no difficulty on that score.

Mr. ECKHARDT. I thank the gentleman.

● Mr. KEMP. Mr. Speaker, today the House will vote on incremental pricing, and I urge my colleagues to veto the phase II incremental pricing regulations. I oppose incremental pricing because it would devastate many Northeastern industries; it would raise consumer prices unnecessarily; and it would subsidize some homeowners at the expense of others.

In way of background, incremental pricing was first adopted by Congress 14 months ago as part of the Natural Gas Policy Act. We have incremental pricing because Congress wanted to slow down the rate of increase in residential and commercial gas prices. This was to be done by forcing interstate industrial gas customers to pay most of the extra costs of phased deregulation.

When incremental pricing was passed, the average residential gas customer was paying $2.80 per million cubic feet (Mcf), industrial customers were paying just over $2, and the price of heating oil—which determines the ceiling price for gas under incremental pricing—was $3.50 per Mcf. Back then, it appeared that incremental pricing would set an initial ceiling of $3.50 on industrial gas prices, an energy price increase of 65 percent.

But back then few people were expecting the Iran crisis and the insuing events which have pushed heating oil prices up to $6.80 per Mcf. Under these drastically altered conditions, incremental pricing will devastate many industrial users. The ceiling on their gas prices will increase not by 65 percent, but by an incredible 225 percent.

This huge jump in costs will create serious competitive disadvantages for many gas-dependent firms in New York and throughout the Northeast. It is estimated that incremental pricing will raise the price of steel by $4 per ton—a devastating blow to an already ailing industry. And incremental pricing will threaten thousands of jobs in the Northeast-Midwest region by encouraging firms to shift production to the exempt intrastate markets of the Southwest.

Incremental pricing was intended to benefit the consumer, but all consumers will suffer when this huge rise in production costs causes the price of many manufactured products to climb. This effect will be quite significant, due to the unexpectedly large increase in oil prices from 1978 to 1980. A recent study by Wharton Econometric Associates predicted that incremental pricing would cause consumer prices to rise by 6.8 percent between now and 1989.

And finally, incremental pricing should be opposed because it would subsidize some homeowners at the expense of others. Incremental pricing attempts to help less than half of all residential consumers—those served by the interstate gas system. Excluded are consumers who use electricity, propane, oil, coal, wood, and those served by the intrastate gas system. These latter consumers will be subsidizing the former through higher prices for most manufactured products. And all of this would be brought about for an estimated direct short-term benefit of less than $2 per month to certain homeowners—homeowners who already enjoy energy costs much lower than their neighbors who use oil and electricity.

Mr. Speaker, the Northeast-Midwest Institute recently put out an excellent analysis of the incremental pricing issue, and pointed out the devastating loss in jobs that will occur if incremental pricing becomes a reality. I urge my colleagues to take time to consider this important study. And as a cosponsor of the Stockman-Preyer bill to repeal incremental pricing, I urge my colleagues to join me in voting to repeal these dangerous regulations when we are given a chance to do so today.

The study follows:

NORTHEAST-MIDWEST INSTITUTE STUDY

INTRODUCTION

In preparation for the deregulation or natural gas prices, the Federal Energy Regulatory Commission (FERC) has submitted proposed regulations for implementing the second phase of a pricing system. These latest regulations are subject to a one-house legislative veto for 30 calendar days following May 6. If they survive this period, the regulations will go into effect after 90 days. If they are vetoed, however, first phase incremental pricing regulations will remain in effect.

Incremental pricing is a system established under the Natural Gas Policy Act of 1978 to phase in deregulation of natural gas and provide protection for residential, small commercial, and other high-priority users of gas now and when prices are fully deregulated in 1985. This protection is achieved by charging industrial users of gas a higher price than residential and other exempt users pay.

This briefing paper, requested by Representative Elwood Hillis and Senator Birch Bayh, (1) defines incremental pricing; (2) describes the experience with incremental pricing under the first phase; (3) explains the issues and regional implications involved with the second phase; and (4) summarizes major legislative options available to Congress.

INCREMENTAL PRICING

After major debate in Congress between supporters of continued regulation of natural gas prices and advocates of deregulation, the Natural Gas Policy Act of 1978 (NGPA) passed as part of a comprehensive National Energy Act. Deregulation was intended to allow the price of gas to rise in response to market forces, increasing incentives for gas suppliers to seek and make available new sources of gas and thus helping to reduce American dependence on foreign energy sources. The Natural Gas Policy Act called for deregulation of recently discovered, or "new," gas in 1985, as well as a new pricing mechanism called incremental pricing. This feature was designed to provide protection for exempt users of gas (residential, small commercial and other high-priority parties) from the higher prices accompanying deregulation and to mitigate disruption of the gas market as prices rise from regulated levels. Under incremental pricing, industrial users pay a surcharge on their gas, providing a subsidy to exempt customers and shielding such users from much of the increased price of deregulated gas.

Incremental pricing provides a system in which all classes of customers pay the same base, or "threshold," price for natural gas. If revenues from the base price do not cover the gas distributor's costs, the remaining amount of money, called an "incremental surcharge", much be recovered from large industrial users. The level of the surcharge is limited, however, by a ceiling price established by the Federal Energy Regulatory Commission and set by statute just below the price of oil. This was designed to eliminate the incentive to switch to oil, the most readily available alternative fuel for many industries.

The pricing system is extremely complex, but the following example will provide the basic outline of the plan (residential and other users do not necessarily start with the same base price).

Suppose a gas distributor is allowed by the state utility commission to charge $10 (which includes his cost of purchasing the gas, overhead, profit, etc.) for 2 Mcf (2000 cubic feet) of natural gas, of which 1 Mcf is sold to a residential customer and the other 1 Mcf to an industrial customer. Suppose further that the base price for gas is $4, permitting the distributor to collect $4 from the residential customer and $4 from the industrial customer. Since the distributor receives only $8 from the base price but must recover $10, incremental pricing requires the firm to charge the industrial customer $2 more. So, the resident would pay $4 for 1 Mcf and the company would pay $6 for the same amount.

If the ceiling price for gas were $5.50, however, the pricing would be different. The resident would pay $4, and the company would pay its $5.50 ceiling, while the remaining $.50 would be charged to the resident. In this case, the resident would pay $4.50 ($4+$.50) and the industry would pay $5.50. The distributor is paid a total of $10.[1]

IMPLEMENTATION OF INCREMENTAL PRICING

Title II of the NGPA mandated that incremental pricing be implemented in two phases. Under Phase I, which went into effect January 1, 1980, 5,000 to 7,000 large industrial customers are charged incrementally for boiler fuel use.[2] For example, this affects large chemical, textile, paper, steel, and automobile manufacturing companies which use natural gas for heating and boiler fuel.[3]

Phase I was restricted to large boiler-fuel users because they were the most readily curtailed during natural gas shortages, and thus would benefit the most from greater supplies.

Phase II regulations were announced by FERC on May 6. These regulations now are subject to a one-house legislative vote for 30 calendar days. If the regulations survive the 30-day period, they go into effect after 90 days. If they are vetoed, however, the first phase of incremental pricing would remain in effect.

Phase II will extend incremental pricing to approximately 50,000 users of natural gas, spreading the higher cost of deregulated natural gas to the maximum number of industrial users possible under the statute.[4] The NGPA specifically exempts commercial users, electric utilities, hospitals, schools, agricultural and other users as determined by FERC from incremental pricing.[5]

Under Phase I, any user who averaged less than 300 Mcf per day during the month of peak use in 1977 was exempted from incremental pricing even if the firm increased consumption above 300 Mcf. This policy remains in effect for boiler fuel users under Phase II. Under Phase II, however, FERC decided to establish a "first 300 Mcf" rule, under which every industrial gas user pays the base price for the first 300 Mcf per day of gas used in non-boiler facilities and pays the incremental surcharge for consumption above 300 Mcf in those facilities.[6]

EXPERIENCE UNDER PHASE I

Because of unanticipated increases in the price of oil since the NGPA was enacted, incremental surcharges in Phase I have been greater than expected. FERC temporarily adopted a price ceiling tied to the price of higher sulfur No. 6 oil, the least expensive alternative fuel oil. But few in Congress foresaw the dramatic rise in the price of oil following enactment of the NGPA in 1978.

The high ceiling price affects the cost of natural gas to large industrial users in two ways.

First, when the NGPA was enacted, the difference between the threshold and the ceiling, or Maximum Surcharge Absorption Capability (MSAC), was fairly small. As a result, the amount of surcharge that an industry would be required to pay was relatively modest, and any greater amount was spilled over to the exempt users' gas prices. When the ceiling price (price of oil) rose, however, the maximum potential surcharge increased because it now was the difference between a relatively low threshold and a much higher ceiling price. With a greater surcharge capability, or MSAC, spillover to exempt users became far less likely, because industry had to shoulder the extra costs of increased gas prices.[7]

Second, because it began to appear that surcharges would reach the ceiling price, a number of states adopted plans that automatically increase industry's cost for gas all the way up to the ceiling. The rate structures adopted by these 28 states (including 13 of the 18 states in the Northeast-Midwest region) are called "zero-MSAC" plans.[8] (See appendix A for list of states that have adopted "zero-MSAC" plans.)

These state plans actually exaggerate the intended effects of incremental pricing by automatically charging every industrial user more than under federal incremental pricing regulations. In addition, industries in zero-MSAC states are not included in the incremental pricing system, which places an extra burden on neighboring states without zero-MSAC plans: the fewer firms remaining under federal incremental pricing, the higher the surcharge each company must pay to cover the cost of the gas.[9]

At the same time, zero-MSAC plans provide extra revenues that can be retained by the State government, Pennsylvania, for example, has already collected $5 million through a zero-MSAC plan. This amount

Footnotes at end of article.

represents the difference between what would have been collected under federal incremental pricing and the ceiling price required by the state plan. Because Phase I industries in Pennsylvania are paying roughly the same price for gas as they would for oil, companies might switch to oil, which is contrary to National Energy Policy. Pennsylvania has this money in an escrow account, but has not yet decided what to do with it. According to the Governor's Energy Council, the money probably will be redistributed in some way among the exempt users.[10]

Before the NGPA was enacted, shortages of natural gas caused serious supply problems for many industrial users of gas. Industries were willing to pay a higher price for gas if they could have access to more dependable supplies. For this reason, it was felt that any fuel-switching resulting from incremental pricing would free up more gas for those willing to pay for it.[11] According to the American Gas Association, there already is some evidence of fuel switching caused by incremental pricing.[12] It now is unclear if this "load loss" will result in increased costs for those remaining on the system or if new industrial customers will take the place of those who have switched to alternative fuels, keeping prices on a plateau.

REGIONAL IMPLICATIONS OF PHASE II

Supply and consumption of natural gas vary greatly from region to region in the United States. According to the Federal Energy Data Systems Summary Update, over one-third of the natural gas used in the United States is consumed in the Northeast and Midwest, primarily in the residential sector (see the Table below for natural gas use within the Northeast-Midwest region and Appendix B for similar data for all regions). Production of natural gas is concentrated in Texas, Louisiana, Oklahoma, and New Mexico. The Northeast-Midwest region produces less than 2 percent of the nation's natural gas.[13] Increased transportation costs lead to higher prices in Northeastern and Midwestern States.

NORTHEAST-MIDWEST REGION'S CONSUMPTION OF NATURAL GAS, 1977

[In trillion Btu]

	New England	Mid-Atlantic	Midwest	Northeast-Midwest total	Region's percent share of U.S. consumption
Residential	148	855	1,743	2,747	55
Commercial	66	338	802	1,206	47
Industrial	53	462	1,536	2,051	23
Transportation	1	29	58	88	16

Source: Federal energy data system (FEDS) statistical summary update; July 1979, U.S. Department of Energy, Assistant Administration for Program Development.

The increase in total gas costs to the estimated 50,000 industrial users which would be charged incrementally under Phase II would increase energy costs for industries. Conversely, the cost of gas to residential and other exempt users would be lower than in the absence of incremental pricing. FERC estimates that the average residential customer would save $18 per year as a result of Phase I and II regulations.[14]

Depending on the size of the increase to industrial users, the extra costs might prove difficult to absorb. For example, Mr. Brad Oelman, Vice President for National Affairs for Owens-Corning Fiberglass Corporation, indicated that his company would tend to shift production from the Midwest to the exempt instrastate markets of the Southwest during periods of excess capacity if Phase II goes into effect.[15]

Mr. Jim Hamilton, Manager of Governmental Affairs for the U.S. Steel Corporation, said Phase II would add an estimated $100 million a year to his company's energy costs. This translates into an extra $4, or 1 percent increase, per ton of steel. This increase would have the most impact on marginal facilities, which have difficulties absorbing increases of any kind.[16]

LEGISLATIVE OPTIONS AVAILABLE TO CONGRESS

Congress has at least four options for incremental pricing under Phase II:

Sustain Phase II regulations (reject veto).

Veto Phase II regulations.

Repeal Title II (incremental pricing) of the Natural Gas Policy Act of 1978.

Modify Title II.

Sustain or Veto Phase II regulations. The Federal Energy Regulatory Commission submitted final Phase II regulations without clearly recommending their adoption. FERC believed its job was to draft regulations according to the demands of Congress in the NGPA, and not to second-guess congressional intent. This position is somewhat unusual because FERC generally supports the adoption of rules it has drafted. FERC has stated that it is up to Congress to decide whether its original goals still are appropriate to national policy.[17] Phase II would extend incremental pricing from $5,000 to $7,000 up to approximately 50,000 industrial users, spreading the higher price of deregulated gas to the maximum number of industrial users permitted under the statute while keeping prices lower for exempt users.

Supporters of incremental pricing argue that deregulation originally was designed to free gas supplies for use by industry and that industry, therefore, should pay the bulk of the increased costs associated with deregulation. Opponents claim that the price of oil has risen dramatically since passage of the NGPA and industry now is forced to pay inordinately high and discriminatory prices for gas.

The 30-day one-house veto provision was written into the NGPA to give Congress the opportunity to review the regulations. If Phase II is vetoed, Phase I would remain in effect. In this case, incremental pricing would continue to affect large industrial boiler-fuel users only. If Phase II is vetoed, FERC has the opportunity to submit a new set of Phase II regulations no sooner than six months but no later than two years from the date that they are vetoed.

On May 7, 1980, the House Interstate and Foreign Committee reported H. Res. 655, introduced by Rep. Philip Sharp (D-Ind.), by a voice vote. The Resolution, which would veto the Phase II incremental pricing regulations, will be scheduled for floor action shortly.

REPEAL OF TITLE II

Repeal of Title II would eliminate both phases of incremental pricing. Legislation to repeal Title II has been introduced in the House (H.R. 5862) by Representatives Richardson Preyer (D-N.C.) and Dave Stockman (R-Mich.), and in the Senate (S. 2392) by Senators Richard Lugar (R-Ind.) and Adlai Stevenson (D.-Ill.). They are supported by a number of groups, including: the American Gas Association, the National Association of Manufacturers, the United States Chamber of Commerce, and the National Association of Regulatory Utility Commissioners.[18]

Repeal of Title II would lead to a return of "rolled-in" pricing, which was used prior to implementation of incremental pricing. Under rolled-in pricing, the price of gas is determined on an average-cost basis (reflecting the acquistion price the distributor must pay for the gas). Deregulation would still take place in 1985, with no "shielding" for small or other high priority users.

As of April 18, 97 members of the House and 15 Senators were co-sponsors of the repeal bills. The incremental pricing issue, however, was a compromise measure to gain the deregulation of natural gas, and many members of the Congress are wary that incremental pricing repeal might open up the entire deregulation issue again.

MODIFICATION OF TITLE II

Currently, the veto and repeal bills are the major options before the Congress. Regardless of the outcome of the vote on the Phase II regulations, it appears that the Congress will still face proposals to repeal Title II. An alternative to repeal is modification of incremental pricing, which would shift a larger portion of the burden of higher gas prices to residential and other exempt users. This would ease the impact of higher oil prices on industrial users of natural gas, while preserving the core of the original agreement that industrial users should pay higher prices to insure greater supplies. Such a compromise would require special legislation action. To date, no bills along these lines have been introduced.

FOOTNOTES

[1] Based on information from: Department of Energy Technical Staff Analysis, February 8, 1980, pp. III–2, III–3.

[2] Testimony of Mr. George H. Lawrence, President of the American Gas Association, before the House Energy and Power Subcommittee, April 3, 1980, pp. 5–6.

[3] Telephone conversation with Mark Decker, National Association of Manufacturers, Director of Energy.

[4] Testimony of George H. Lawrence, pp. 5–6.

[5] National Gas Policy Act of 1978, Public Law 95–621, Section 206.

[6] FERC regulations for Phase II, Rm. 80–10, May 6, 1980, p. 30.

[7] Department of Energy Technical Staff Analysis, Executive Summary.

[8] National Association of Regulatory Utility Commissions (NARUC), March 10, 1980 survey on "Status of State Natural Gas Rate Design," questionnaire sent to all public utility commissions.

[9] Meeting with Mr. Edward L. Petrini, National Consumers Law Center.

[10] Telephone conversation with Mr. John Buffington, Governor's Energy Council, Harrisburg, Pennsylvania.

[11] Department of Energy Technical Staff Analysis, February 8, 1980, pp. I–2, I–3.

[12] Testimony of George H. Lawrence, pp. 7–8.

[13] American Gas Association, *Gas Facts: 1978 Data*, supply tables, pp. 24–27.

[14] FERC's regulations for Phase II, Rm 80–10, May 6, 1980, pp. 86.

[15] Telephone conversation with Mr. Brad Oelman, Vice President for National Affairs, Owens-Corning Fiberglas Corporation.

[16] Telephone conversation with Mr. Jim Hamilton, Manager for Governmental Affairs, U.S. Steel Corporation.

[17] FERC regulations for Phase II, Rm 80–10, May 6, 1980, introduction, pp. 2–5.

[18] American Gas Association, news release, April 3, 1980; National Association of Manufacturers, "Washington Outlook" newsletter, Mark Decker (contact); United States Chamber of Commerce, news release, April 3, 1980; and National Association of Regulatory

Utility Commissions, Floor Resolution No. 12, 91st Annual Convention, Atlanta, Georgia.

APPENDIX A: STATES WITH ZERO-MSAC PLANS IN NORTHEAST-MIDWEST REGION

Connecticut, Illinois, Indiana, Iowa, Maryland, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin.

OTHER STATES

Alabama, California, Kansas, Montana (already above price ceiling), Nevada, New Mexico, North Carolina, Oregon (already above ceiling price), South Carolina, Tennessee, Utah, Virginia, and Wisconsin.

SOURCE: National Association of Regulatory Utility Commissioners, "Status of State Natural Gas Rate Design," April 1980.●

● Mr. BENJAMIN. Mr. Speaker, I join in the support of House Resolution 655, which provides for the disapproval of the rule submitted to Congress on May 6 by the Federal Energy Regulatory Commission to expand incremental pricing of natural gas beyond its current applicability to boiler fuel use.

Economic and national energy circumstances have vastly changed since the NGPA was passed in 1978. Natural Gas was in short supply during that period and the dramatic increase in oil price—to which incremental pricing is tied—was unforeseen. Thus, the economic burden placed by incremental pricing on the industry is greater now than was predicted at that time.

The typically elaborate regulations of the Federal Energy Regulatory Commission (FERC) have also lost sight of a very fundamental business principle in its race to protect the residential and commercial users of natural gas. Namely, that increased costs of production are passed on to the customer through increased prices. Industry must maintain its prices at a level which covers its costs and allows for future product development and growth.

The "protected" residential and commercial users will ultimately pay for industrial surcharges through the increased prices they will pay for products produced by the penalized industrial users. Title II of the Natural Gas Policy Act of 1978 is inflationary and counterproductive. Industrywide use of these surcharges will simply generate another round of industrywide price increases which will be borne by the "protected" groups.

A more subtle but serious consequence on incremental pricing is the advantage provided industrial development and competition in gas producing States versus consuming States. The regulations exempt intrastate gas which will further enhance the appeal of gas consumption in Sun Belt States. Numerous plant relocations may be a likely consequence of incremental pricing.

The extension of incremental pricing as proposed by the rule we consider today would cost the steel industry alone about $400 million a year based on today's alternate fuel costs and at least $700 million to all industries. This added burden is inflationary and impacts negatively on the industry's ability to compete with offshore producers. It would be particularly damaging to an already depressed basic industry.

At a time when we are trying to lighten the heavy burden of governmental regulations which have been placed on industry, which has caused hardships on both the industry and the consumer, it appears absurd that we should add to that burden by allowing this rule to become effective. This is particularly true since sufficient evidence cannot be presented that the consumer will even benefit initially.

I urge all my colleagues to approve House Resolution 655 and reject the proposed rule in the name of the U.S. consumer, not in spite of the consumer. Thank you.●

● Mr. QUAYLE. Mr. Speaker, after much heated debate and intense deliberation, the 95th Congress passed the Natural Gas Policy Act to provide for phased deregulation of new natural gas in 1985. I favor the deregulation of natural gas prices because it will encourage increased production, increased conservation, and increased development of alternative domestic energy sources.

Today, this House is reviewing the phase 2 incremental pricing regulations proposed by the Federal Energy Regulatory Commission as required under title II of this act. The phase 2 regulations would extend incremental pricing to all industrial gas consumption over 300,000 cubic feet per day, with exemptions for high priority and agricultural uses, and establish an alternative fuel price ceiling for natural gas at the No. 6 high-sulfur residual fuel oil. As envisioned by the act, the objective of incremental pricing is to protect residential and other high-priority users of natural gas from sudden price increases and to provide stability in the marketplace as deregulation because effective. The regulations will not achieve these objectives, but will, in fact, make for a more disastrous situation.

Given today's market conditions, should the phase 2 regulations be finalized, industrial gas users would be financially moved to switch from gas to oil. Such a switch would run counter to our Nation's need to reduce our dependence on foreign oil. Furthermore, the remaining gas users would have to carry the burden on paying the fixed costs of producing and transporting gas. This "loadloss" means that residential customers and other high-priority users would see an increase in their costs for using gas. The American Gas Association reports that some evidence is already appearing to indicate fuel switching.

According to a study by the Wharton Economic Forecasting Associates contracted by the AGA, incremental pricing will result in higher prices for all individuals, regardless of their home fuel source, because of the increases in prices of goods and services as industries pass through the increased natural gas prices. In fact, the average household would see a decline in purchasing power, with those on fixed incomes being hit the hardest.

The effect of incremental pricing will be greatly felt in my home State of Indiana. Gas-intensive industries are not evenly distributed throughout the Nation. The U.S. Department of Commerce projects that by 1990, 36 percent of these industries will be located in a region comprised by the States of Indiana, Ohio, Illinois, Michigan, and Wisconsin The Frostbelt is already having difficulties in attracting and keeping business and industry; incremental pricing would only heighten these difficulties. Let me take this opportunity to give an example.

At the request of Congressman BUD HILLIS, my colleague and fellow Hoosier, the Northeast-Midwest Institute has prepared an issue brief which discusses, in part, the impact of incremental pricing on U.S. Steel. The brief indicates that U.S. Steel will face an increase of $100 million a year in their energy costs should phase two regulations be implemented. These increases would have the greatest impact on marginal facilities, which could not absorb the higher costs. These facts are reinforced by my own correspondence with U.S. Steel's Gary Works plant in Indiana. Surely, the implementation of the regulations would have severe impact on the steel industries' struggles to compete against foreign products.

These Government regulations are an excellent example of how encumbering Federal mandates can be to the innovation in American industry and business. Funds needed to pay the cost of incremental pricing would be better used for capital improvements increasing productivity and providing new jobs. Given the chance, the private sector can better determine price and allocation than the Federal Government. Congress should seriously consider legislation, which I have cosponsored, to repeal title II of the Natural Gas Policy Act completely, H.R. 5862.

Today, however, the resolution before the House, H.R. 655, would veto the phase two regulations. I urge my colleagues to join me in supporting this measure.●

● Mr. TAUKE. Mr. Speaker, I rise in support of House Resolution 655, a resolution to veto phase II of incremental pricing under title II of the Natural Gas Policy Act of 1978. Phase II would extend incremental pricing to approximately 55,000 nonboiler users of natural gas from interstate pipelines.

Incremental pricing, a compromise worked out between supporters of the continued regulation of natural gas pricing, on the one hand, and advocates of natural gas deregulation, on the other, was designed to shift the increased costs of natural gas to industrial users. More specifically, it was intended by Congress to have two important goals: First, to soften the impact of increased prices on residential users of natural gas during the price deregulation period running through 1985; and second, to provide a market-ordering mechanism by requiring industrial users to pay as much for natural gas as they would for an alternative fuel.

A phase II implementation of incremental pricing would not only fail to achieve these goals, but in cost-benefit terms, would do more damage to our economy and our energy policies than good. Moreover, it would not significantly shield residential customers from

higher gas prices. On the contrary, incremental pricing under phase II would result in higher costs for all consumers whether they are gas users or not.

Industrial users of natural gas will be faced with two alternatives: Either retain reliance on natural gas or convert to an alternative fuel. If they continue to use gas, they will either be forced to pass along all or part of their increased energy costs to consumers in the form of higher product prices. All consumers, whether or not they benefit from the nominal savings brought about by phase II ($10 per year per family), will have to pay higher product prices, thereby heightening our inflationary spiral. If the industrial users are not able to recoup all or part of the increased gas costs, they will be forced to absorb the utility costs. And these costs are staggering. Two businesses in my district, Midland Forge, Inc., and Harnischfeger Corp., estimate their increased costs at $250,000 and $412,000 respectively. These figures represent increases of 100 percent and 130 percent over their firms' energy costs for 1979.

Larger national firms would also be severely impacted. Phase II would cost the steel industry over $400 million, thus creating large economic problems for an industry that is having difficulty staying competitive with the Japanese. The auto idnustry would also be severely impacted—General Motors and Chrysler have estimated increased costs from phase II at $210 million and $64 million respectively.

These huge cost increases will have other detrimental effects as well. According to a study by the Wharton Econometrics Forecasting Associates, inflation would be approximately 1 percent higher each year over the next decade, and unemployment would show a 1 percent rise by 1990 and a resulting loss of 1 million jobs. Moreover, incremental pricing would undoubtedly encourage business flight to the sunbelt where industrial gas users, because they depend on intrastate gas, are exempt from incremental pricing.

Besides contributing to industrial dislocations, phase II of incremental pricing could also encourage industrial users to switch to oil, an action that is contrary to our national energy policy. If this switch were widespread, the ability of gas utilities to market gas to industrial users would be impeded. And oil imports would rise. In 1979 alone, the gas industry saved this country $4 billion in foreign oil payments.

If, however, as the Federal Energy Regulatory Commission found, phase II users would have "little or no capability to switch to alternative fuels," one of the major purposes of incremental pricing—to serve as a market-ordering mechanism—would not be served. It would, therefore, not be able to affect the prices that pipelines pay for gas. Either way, the results are the same—contrary to our national interest.

It is clear that phase II of incremental pricing neither helps the residential users it was intended to help, nor does it serve the market-ordering function proposed in the Natural Gas Policy Act of 1978. Finally, it severely burdens American industry at a time when our productivity is declining and our small business community is experiencing great hardship.

Again, I urge support for House Resolution 655 so that we can defeat phase II of incremental pricing.●

● Mr. ASHLEY. Mr. Speaker, I had the privilege of serving as one cochairman of the House-Senate Conference Committee on the Natural Gas Policy Act of 1978 (NGPA) and my review of the Federal Energy Regulatory Commission's (FERC) proposed rule implementing phase II of incremental pricing provision of that act leads me to the view that the thrust of the rule runs counter to the legislative hisory of the NGPA and to the intent of Congress. Moreover, I am convinced that the promulgation of the rule as currently constituted would be a serious mistake in public policy.

In my role as a conferee on the NGPA, I had occasion to engage in a colloquy with my colleague JOHN DINGELL during floor consideration of the bill. That colloquy made clear the conferees' understanding that a significant delegation of authority was being made to FERC under NGPA, with respect to phase II of incremental pricing. But the remarks also made very clear the intent of Congress that FERC exercise this authority cautiously, and that the Commission carefully consider the economic impact of incremental pricing in all industrial users (especially industrial process users) before promulgating a final rule. I do not believe that such caution and consideration has been exercised in this case.

The clear congressional intent that the Commission exercise caution in promulgating this rule was based on a general understanding of the serious energy policy questions involved, and on the severe economic and regional dislocations which could result from the abuse of these broad discretionary powers by the Commission. The statute itself explicity recognized the inherent danger in setting natural gas prices at levels which would encourage industrial users to switch from gas to the use of oil products. The determination of a "switchover" price for any industrial user is not an inconsequential problem, and it certainly is not one that can be settled at the high pricing levels in FERC's proposed rule. By setting the ceiling for incrementally priced gas at No. 6 high-sulfur fuel oil, which is presently selling at a price below that of natural gas, the FERC rule could have the effect of shifting current industrial gas users to No. 6 high-sulfur fuel oil causing a greater dependency on imported oil.

Further, the proposed rule runs the risk of causing serious economic and regional dislocations. There is a likelihood, in my judgment, that at least some industrial users on the interstate system would not be able to sustain these sharp cost increases, which raises the spectre of marginal businesses either closing or sharply reducing production. There is also a likelihood that pronounced price disparities would accrue to the various industrial users served by different interstate pipelines, for it is certain that incremental pricing will effect these pipelines in different ways. In short, it is distinctly possible that incremental pricing, injudiciously applied, could lead to economic downturns and higher unemployment in selected areas. This at a time when the economy is entering a recession of unknown severity. It was the clear intent of Congress that such significant economic considerations affecting industrial users would be balanced against the impact of higher gas prices on residential users.

All of these problems were recognized and articulated in October of 1978 when Congress enacted NGPA. Since then, however, volatile world energy market conditions have made consideration of these problems even more important. The price of No. 2 distillate oil, as well as that of No. 6 residual fuel oil have virtually doubled since November of 1978. Thus, FERC's adoption of a rule imposing even the lowest of these prices would be at a level much higher than Congress foresaw (or could have foreseen) at the time of NGPA's enactment. Consequently, any such rule risks the serious economic dislocations I have mentioned.

I remain supportive of the concept of incremental pricing as a shield to protect residential consumers; it would be ironic, however, if the Commission's rule, in the pursuit of this goal through incremental pricing, were to lead to actual plant shutdowns, and the unemployment of the very residential users incremental pricing is intended to protect.

Finally, I would note that I have been consistently opposed to the notion that incremental pricing should apply only to the interstate market. This limited application of incremental pricing was passed, however, for reasons that are largely irrelevant to the issue at hand, but it presents additional problems with the instability in market conditions. At the time of the enactment of the NGPA, the extension of incremental pricing only to the interstate market was tempered somewhat by the fact that gas prices in the intrastate system then reflected the price of No. 2 and No. 6 fuel oils. Now, with intrastate gas prices controlled at price levels reflecting November 1978 fuel oil prices, intrastate gas prices are only perhaps half the level of present fuel oil prices. Clearly, the proposed rule would perpetuate this sharp imbalance, and give the intrastate market an even larger competitive advantage in relation to the interstate market.

All of these factors argue for a more moderate approach to incremental pricing than that reflected in the phase II rule that has been submitted to Congress. I strongly believe that a more cautious approach would be better energy and economic policy and ultimately more helpful to residential customers as well. I would urge my colleagues to support the resolution of disapproval before us today.●

● Mr. OBERSTAR. Mr. Speaker, I support House Resolution 655, disapproving the Federal Energy Regulatory Commission's proposed regulations for phase II of title II of the Natural Gas Policy Act.

When the Natural Gas Policy Act was first pending in Congress, interstate gas was regulated and intrastate gas was not. Because the unregulated gas commanded a higher price, the gas was not moving in interstate commerce and was causing economic imbalances. These imbalances affected the gas supplies of industry and forced residential consumers to pay inequitably high prices for the supplies of gas available to them.

Northern States, in particular, were denied a stable and dependable supply of gas. Industries were forced to convert to other forms of energy. Consequently, industry productivity and the availability of jobs declined. Prices rose.

The Natural Gas Policy Act was an attempt to remedy these imbalances. The decision by Congress to deregulate natural gas prices was intended to allow the price of gas to rise in response to market forces. Higher prices were intended to create incentives for gas suppliers to seek and provide new sources of gas for American consumers. The act sought to establish a more dependable supply of natural gas for industry and to stabilize the use of natural gas in the country.

The Natural Gas Act was fashioned as a compromise. It deregulated gas prices in exchange for the establishment of a single national market and a single national price for natural gas—the price ultimately to be deregulated. Industry agreed to accept a larger burden of the price increases in exchange for an increased availability of natural gas and more stable supply. Residential consumers were shielded somewhat from the initial price increases through this act.

Decontrol, however, raised the prospect of an unacceptable burden on residential consumers. I still believe decontrol was a mistake. OPEC's practice of setting unreasonably high oil prices with little, if any, relation to the cost of production, has driven relentlessly upward the price of all other forms of energy. Continued Government control of the price of natural gas would have served as a restraint on price increases. Deregulation has proven to be inflationary and has most adversely affected those people least able to afford fuel price increases: those on fixed, low, or moderate incomes.

For reasons unforeseeable in 1978, the market did not work in a manner in which Congress had anticipated when it passed the Natural Gas Policy Act. Largely because of conservation measures and increased crude oil stocks, the price of high-sulfur fuel fell below the price of natural gas. This created a financial incentive for industrial users to convert to oil from natural gas. The effect was a shift of the burden of the higher natural gas prices to the residential consumers. These unintended results were contrary to the act's goals of creating greater energy independence and easing the burden on the consumer of the higher fuel prices.

The newly proposed phase II regulations would accelerate this trend and further shift the burden to low-, moderate-, and fixed-income consumers. A means must be found to prevent the flight of industry from natural gas to fuel oil, and the consequent shift of higher prices to residential consumers. The only way to achieve this, in the interest of the consumer, is to veto the proposed phase II regulations.

The Northeast-Midwest Congressional Coalition, of which I am the co-chairman, has prepared a thorough analysis of the phase I impact on northern industrial States. That study shows that the impact was negative. Fuel switching, caused by incremental pricing, may have resulted in increased costs for industrial consumers of natural gas. Increased transportation costs also contributed unexpectedly to this burden.

The Natural Gas Policy Act compromise was well intentioned but has now proven to be detrimental to the very people it intended to help. It is causing further regional-economic imbalances, benefiting the sunbelt State at the expense of the northern tier States.

While I am reluctant to repeal this compromise, this action appears to be the only solution for the time being to this perplexing situation. It is the only way in which we can reestablish equity for residential users who are more limited in their options for conservation. We cannot continue a policy which benefits none and drives the United States back into the arms of the OPEC countries.●

Mr. SHARP. Mr. Speaker, I have no further requests for time. I would simply urge my colleagues to vote for the resolution which would disapprove the phase two rule on incremental pricing. It is very clear at this time that such a rule would not provide a market-ordering mechanism, as had been the original intent. It is very clear that at this time the benefits from such a rule would be very small for the protected class of users, and yet the burdens it would place upon the industrial sector would put some of our industries at risk at a time of great economic difficulty.

It is also clear, Mr. Speaker, that we have not yet had adequate experience under phase one incremental pricing to be able to say with much certainty what the results will be, and very clearly phase one has generated some problems that need to be resolved before we would consider extending this rule.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. STOCKMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 369, nays 34, not voting 29, as follows:

[Roll No. 244]

YEAS—369

Abdnor	Edgar	Leach, Iowa
Akaka	Edwards, Ala.	Leach, La.
Albosta	Edwards, Okla.	Leath, Tex.
Alexander	Emery	Lederer
Ambro	English	Lee
Anderson, Calif.	Erdahl	Lent
	Erlenborn	Levitas
Anderson, Ill.	Ertel	Lewis
Andrews, N.C.	Evans, Del.	Livingston
Andrews, N. Dak.	Evans, Ga.	Lloyd
	Evans, Ind.	Loeffler
Annunzio	Fary	Long, La.
Anthony	Fazio	Long, Md.
Applegate	Fenwick	Lott
Archer	Ferraro	Lowry
Ashbrook	Findley	Lujan
Ashley	Fish	Luken
Aspin	Fisher	Lundine
Atkinson	Fithian	Lungren
Badham	Flippo	McClory
Bafalis	Florio	McCloskey
Bailey	Foley	McCormack
Baldus	Ford, Mich.	McDade
Barnes	Ford, Tenn.	McDonald
Bauman	Forsythe	McHugh
Bedell	Fountain	McKay
Benjamin	Fowler	Madigan
Bennett	Frenzel	Markey
Bereuter	Frost	Marks
Bethune	Fuqua	Marienee
Bevill	Gaydos	Marriott
Biaggi	Gephardt	Martin
Bingham	Gibbons	Matsui
Blanchard	Gilman	Mattox
Boggs	Gingrich	Mavroules
Boland	Ginn	Mazzoli
Bolling	Glickman	Mica
Boner	Goldwater	Michel
Bonior	Gonzalez	Mikulski
Bonker	Goodling	Miller, Calif.
Bouquard	Gore	Miller, Ohio
Bowen	Gradison	Mineta
Brademas	Gramm	Mitchell, N.Y.
Breaux	Gray	Moakley
Brinkley	Green	Montgomery
Brodhead	Grisham	Moore
Brooks	Guarini	Moorhead, Calif.
Broomfield	Gudger	
Brown, Ohio	Guyer	Moorhead, Pa.
Broyhill	Hagedorn	Mottl
Buchanan	Hall, Ohio	Murphy, Ill.
Burgener	Hall, Tex.	Murphy, N.Y.
Burlison	Hamilton	Murphy, Pa.
Butler	Hammer-schmidt	Murtha
Byron		Musto
Campbell	Hance	Myers, Ind.
Carney	Hanley	Myers, Pa.
Carr	Harkin	Natcher
Carter	Harris	Neal
Cavanaugh	Harsha	Nedzi
Chappell	Heckler	Nelson
Cheney	Hefner	Nichols
Clausen	Heftel	Nowak
Clay	Hightower	O'Brien
Cleveland	Hillis	Oakar
Clinger	Hinson	Oberstar
Coelho	Holland	Obey
Coleman	Hollenbeck	Ottinger
Collins, Tex.	Hopkins	Panetta
Conable	Horton	Pashayan
Corcoran	Howard	Patterson
Corman	Hubbard	Paul
Cotter	Huckaby	Pease
Coughlin	Hughes	Pepper
Courter	Hutto	Perkins
Crane, Daniel	Hyde	Petri
Crane, Philip	Ichord	Peyser
D'Amours	Ireland	Pickle
Daniel, Dan	Jacobs	Porter
Daniel, R. W.	Jeffords	Preyer
Danielson	Jeffries	Price
Dannemeyer	Jenkins	Pritchard
Daschle	Jenrette	Pursell
Davis, Mich.	Johnson, Calif.	Quayle
Davis, S.C.	Johnson, Colo.	Quillen
de la Garza	Jones, N.C.	Rahall
Deckard	Jones, Okla.	Railsback
Derrick	Jones, Tenn.	Regula
Derwinski	Kastenmeier	Reuss
Devine	Kazen	Rhodes
Dickinson	Kelly	Rinaldo
Dicks	Kemp	Ritter
Dingell	Kildee	Roberts
Dodd	Kindness	Robinson
Donnelly	Kogovsek	Rodino
Dornan	Kostmayer	Roe
Dougherty	Kramer	Rostenkowski
Duncan, Tenn.	LaFalce	Roth
Early	Lagomarsino	Rousselot
Eckhardt	Latta	Roybal

Royer	Spence	Waxman
Rudd	Stack	Weiss
Runnels	Staggers	White
Russo	Stangeland	Whitehurst
Sabo	Stanton	Whitley
Santini	Steed	Whittaker
Satterfield	Stenholm	Whitten
Sawyer	Stockman	Williams, Mont.
Scheuer	Studds	Williams, Ohio
Schroeder	Stump	Wilson, Bob
Schulze	Swift	Wilson, Tex.
Seiberling	Synar	Winn
Sensenbrenner	Tauke	Wirth
Sharp	Taylor	Wolpe
Shelby	Thomas	Wright
Shumway	Thompson	Wyatt
Shuster	Traxler	Wydler
Simon	Trible	Yatron
Skelton	Udall	Young, Alaska
Smith, Iowa	Vento	Young, Fla.
Smith, Nebr.	Volkmer	Young, Mo.
Snowe	Walgren	Zablocki
Snyder	Walker	Zeferetti
Solarz	Wampler	
Solomon	Watkins	

NAYS—34

Addabbo	Hawkins	Rosenthal
Bellenson	Holtzman	Shannon
Burton, John	Maguire	St Germain
Burton, Phillip	Minish	Stark
Chisholm	Mitchell, Md.	Stokes
Collins, Ill.	Moffett	Stratton
Conte	Mollohan	Vanik
Dellums	Nolan	Weaver
Dixon	Patten	Wolff
Downey	Rangel	Yates
Drinan	Ratchford	
Garcia	Richmond	

NOT VOTING—29

AuCoin	Giaimo	Sebelius
Barnard	Grassley	Spellman
Beard, R.I.	Hansen	Stewart
Beard, Tenn.	Holt	Symms
Brown, Calif.	Lehman	Ullman
Conyers	Leland	Van Deerlin
Diggs	McEwen	Vander Jagt
Duncan, Oreg.	McKinney	Wilson, C. H.
Edwards, Calif.	Mathis	Wylie
Fascell	Rose	

□ 1610

The Clerk announced the following pairs:

Mrs. Spellman with Mr. Grassley.
Mr. Rose with Mr. Sebelius.
Mr. Fascell with Mr. Symms.
Mr. Beard of Rhode Island with Mr. Vander Jagt.
Mr. AuCoin with Mr. McKinney.
Mr. Lehman with Mrs. Holt.
Mr. Van Deerlin with Mr. Beard of Tennessee.
Mr. Charles H. Wilson of California with Mr. McEwen.
Mr. Leland with Mr. Wylie.
Mr. Brown of California with Mr. Stewart.
Mr. Conyers with Mr. Mathis.
Mr. Diggs with Mr. Barnard.
Mr. Duncan of Oregon with Mr. Ullman.
Mr. Edwards of California with Mr. Giaimo.

Messrs. SHANNON, DOWNEY, and RATCHFORD changed their votes from "yea" to "nay."

Mr. CLAY and Mr. TAYLOR changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. SHARP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the matter just concluded.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERSONAL EXPLANATION

Mr. MOLLOHAN. Mr. Speaker, this afternoon the House voted on House Resolution 655, which disapproves of the proposed regulations by the Federal Energy Regulatory Commission on the incremental pricing of natural gas. I was quoted as voting "nay". My vote should have been "yea" on disapproving.

I respectively request that the record show that I do not support FERC's regulations and my vote should have been recorded as "yea".

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST THE CONFERENCE REPORT ON H.R. 3236, SOCIAL SECURITY DISABILITY AMENDMENTS OF 1980

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1037) on the resolution (H. Res. 673) waiving certain points of order against the conference report on the bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6515, PANAMA CANAL APPROPRIATIONS AUTHORIZATION ACT, FISCAL YEAR 1981

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1038) on the resolution (H. Res. 674) providing for the consideration of the bill (H.R. 6515) to authorize appropriations for the fiscal year beginning October 1, 1980, for the maintenance and operation of the Panama Canal, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6674, TO AUTHORIZE ADDITIONAL FUNDS FOR NATIONAL VISITORS CENTER

Mr. LONG OF Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1039) on the resolution (H. Res. 675) providing for the consideration of the bill (H.R. 6674) to amend the National Visitors Centers Facilities Act of 1968 to authorize additional funds, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6075, TO AUTHORIZE ADMINISTRATOR OF GENERAL SERVICES TO ISSUE OBLIGATIONS FOR FINANCING OF PUBLIC BUILDINGS

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. 96–1040) on the resolution (H. Res. 676) providing for the consideration of the bill (H.R. 6075) to amend the Public Buildings Act of 1959, to authorize the Administrator of General Services to issue obligations for the construction and acquisition of public buildings, and for other purposes, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H.R. 2313, FEDERAL TRADE COMMISSION AMENDMENTS

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 664 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 664

Resolved, That upon the adoption of this resolution the House shall proceed to the immediate consideration of the conference report on the bill (H.R. 2313) to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such Act, and for other purposes, and all points of order against the conference report for failure to comply with the provisions of clauses 3 and 4, rule XXVIII, are hereby waived.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the usual 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 664 makes in order the immediate consideration of the conference report on H.R. 2313, the Federal Trade Commission Improvements Act. Conference reports in general have privilege to be called up at any time under clause 1 of rule XXVIII, after they have laid over 3 calendar days excluding Saturdays, Sundays, and legal holidays. In this case, however, a rule was granted waiving points of order which might lie against the conference report because of possible violations of clauses 3 and 4 of rule XXVIII. Clause 3 limits the contents of a conference report to the scope of the differences between the two houses. Clause 4 prohibits the inclusion in a conference report of any matter which would be in violation of the House germaneness rule (clause 7 or rule XVI) if offered as an amendment in the House.

It is my understanding that these provisions of the conference report on H.R. 2313 may violate clause 3 of rule XXVIII (scope):

Section 3. Disclosure of commercial or financial information; quarterly financial reports, in providing for a plan to reduce small business reporting requirements.

Section 5. Commission investigations of insurance business, in providing the exception permitting the Commission to study that industry at the request of the House or Senate Commerce Committee.

Section 19. Restriction of Commission regulation of funeral industry, in restricting the authority of the Commission to regulate the funeral industry.

Section 21. Congressional review of rules, in expanding procedural requirements.

It is our understanding that the following provisions of the conference report on H.R. 2313 may pose violations of clause 4, rule XXVIII (germaneness):

Section 2. Reconsideration of orders.

Section 3. Disclosure of commercial or financial information; quarterly financial reports.

Section 4. Confidentiality of line-of-business reports.

Section 5. Commission investigations of insurance.

Section 6. Enforcement authority.

Section 7. Standards and certification rulemakings.

Section 8. Advance notice of proposed commission rules.

Section 9. Presiding officer at rulemaking procedures.

Section 10. Compensation for participation in rulemaking proceedings.

Section 12. Ex parte meetings.

Section 13. Civil investigative demands.

Section 14. Confidentiality.

Section 15. Regulatory analyses; Judicial review; regulatory agendas.

Section 16. Good faith reliance upon actions of Board of Governors of Federal Reserve System.

This rule was not a controversial matter in the Rules Committee where it was adopted by a voice vote.

Mr. Speaker, the last authorizing legislation for the Federal Trade Commission was enacted for fiscal year 1977. Since that authorization expired, the FTC has been operating through continuing appropriations or by transfer of appropriations. The last such funding was a transfer enacted May 1, after the Commission was ordered to shut down.

As everyone is well aware, H.R. 2313 has been in conference for months. In view of the serious differences about this controversial legislation, it is something of a miracle that we have a conference report here at this time. Our conferees have worked long and hard to sustain the House position and to resolve the differences in a manner that is acceptable to this House. Whatever your opinion of the result of the conference, I would submit that this is the best compromise we can hope for. This rule, and the conference report it brings to the floor, deserve the support of this body.

In conclusion, I would take this opportunity to state the obvious while the agonies of resolving the differences about the Federal Trade Commission are fresh on our minds. There is a popular notion that the answer to the problems of excessive Government regulation and redtape and the problems of duplication and waste and ineffectiveness in Government programs is "sunset."

This term is sometimes interpreted to mean kill programs through automatic termination. If we should be so foolish as to adopt an automatic termination mechanism, then we would be faced annually with at least 100 crises of the magnitude of the FTC impasse.

What is needed to improve the performance of Government is careful congressional oversight, which I call "sunset review." It is only through careful and painstaking examination of Government program performance that we can make important choices about budget priorities. We must end Government programs which are not serving the public interest, but automatic termination without scrutiny would be tantamount to throwing the baby out with the bathwater.

□ 1620

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the provisions of the rule have been explained. We are here today again on the Federal Trade Commission authorization which provides for that bureaucratic agency to continue to exist. When the bureaucrats run roughshod over our free enterprise system, that agency's wings need to be clipped. And there is no question about it, the conferees have come up with some compromises that do this.

Even though that has been accomplished, I am not for this rule. I am not for the measure coming up on the floor of the House, because I believe so deeply in our free enterprise system. We should not let those rule with a strong hand who are out to destroy it.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. LONG of Louisiana. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. LEVITAS), for purposes of debate only.

Mr. LEVITAS. Mr. Speaker, I rise in support of this rule and commend the Rules Committee for bringing this rule to the House.

I take this time to explain the reason why this rule is needed. It is because the conference committee included a provision in the legislative veto section of the bill that will give the Members of the House and the other body the opportunity to vote on each veto resolution that is introduced if a sufficient number of the Members desire such a vote. This is called expedited procedures.

The special procedures are in my judgment essential to the effective utilization of a legislative veto, certainly in the case of the Federal Trade Commission, because it will preclude and prevent the bottling up, the pigeonholing and the iceboxing of a veto resolution by the committee which would otherwise have that opportunity. Now, this is not a meaningless function.

One only has to recall the veto resolution that was introduced in connection with the airbag controversy some months ago. A number of Members of this body had supported that veto resolution, and yet the Members of this House never had an opportunity to vote on it. It was killed in committee, because it was never brought out for a vote.

Just recently this year, the Federal Elections Commission, which is subject to a legislative veto, issued rules relating to the Presidential debates this year and changed the procedures under which they could be operated and funded. A veto resolution was contemplated, but it was never brought to the floor of this House or the other body. It was bottled up and killed in that fashion.

In my judgment, the inclusion of the special expedited procedures, which will permit the Members of this House and the other body to work their will, means that the legislative veto in the Federal Trade Commission conference report is a stronger legislative veto provision than the form it was in when it originally passed this House. Therefore, Mr. Speaker, I commend not only this rule, but I commend the passage and adoption of the conference report, because it is the first time that we have put in place a meaningful and effective legislative veto on the FTC on all of its rulemaking activities and returning to the people through their elective representatives control over the laws which affect their lives and livelihoods.

Mr. Speaker, I yield back the balance of my time.

Mr. LONG of Louisiana. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. FROST), for purposes of debate only.

Mr. FROST. Mr. Speaker, I want to express my support of the conference report on the authorization for the Federal Trade Commission. I would like to commend the House and Senate committee leadership and all those who worked so diligently to draft this compromise legislation. It is a tribute to all those who believe that we should strike a reasonable balance between allowing the FTC to operate in its lawful sphere of activity and insuring that the Commission does not exceed its legislative mandate.

I believe this conference report resolves most of the controversial issues concerning the FTC that were raised during our lengthy discussion of the authorization bill. It enables the Commission to continue its administrative proceedings in several major areas, but at the same time it provides for much-needed guidelines that are designed to limit the Commission's activities in areas that the Congress believes are questionable.

One of the major areas of controversy addressed by the conference report is the subject of children's advertising. As most of my colleagues know, the FTC in 1978 initiated a proceeding of proposed rulemaking that, if adopted, would have significantly altered this entire field. I believe this proceeding was an unwarranted Government agency attempt to restrict the truthful advertising of lawful products.

This type of regulatory activity could, in my opinion, be a dangerous precedent that could ultimately lead to perhaps arbitrary judgments at the expense of the first amendment and our Nation's heritage of free expression. A 1976 Supreme Court case dealt with a similar controversy, and in this instance, the Court denied the Government's right to inhibit free expression through limits on legal advertising. In that case, the Court said:

> What is at issue is whether a State may completely suppress the dissemination of concededly truthful information about entirely lawful activity, fearful of that information's effect upon its disseminators and recipients. Reserving other questions, we conclude that the answer to this one is in the negative.

The House and Senate conferees were concerned that the proposed rulemaking raises "fundamental issues of free speech and due process. The conferees expect the Commission to seriously weigh these concerns in future proceedings, if any."

If this conference report is adopted by the House, as I believe it should be, the FTC will still have the power to regulate deceptive children's advertising. However, the report does require the Commission to insure that it is not exceeding its bounds of authority.

It suspends the proceedings in this area until the Commission votes to publish a proposed rule. It requires the Commission to publish the text of the proposed rule at the beginning of any future rulemaking procedure. And it requires that future activities in this area by the Commission be based solely on "deceptive" practices, specifically prohibiting the use of the criteria of "unfairness" as a basis for new advertising rulemaking proceedings during the life of the authorization.

I believe these provisions adequately address the questions raised by the Commission's attempts to regulate children's advertising. For that reason, I am urging the House to join me in voting for this conference report.

□ 1630

Mr. LONG of Louisiana. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER *pro tempore* (Mr. YATES). Pursuant to the provisions of House Resolution 664, the House will proceed to the immediate consideration of the conference report on the bill, H.R. 2313.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of May 1, 1980.)

The SPEAKER pro tempore. The gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 minutes, and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as my colleagues know, the Federal Trade Commission has been without an authorization bill for more than 3 years. It is essential that the conference report be adopted without further delay in order for this agency to continue in operation.

I want to again express my appreciation to the House conferees for all their good efforts and hard work in finally reaching agreement with the Senate on a number of complicated issues contained in this bill. This is a complex and controversial piece of legislation and, while I doubt that any member of the conference committee is entirely satisfied with all of the provisions of the conference report, I believe it represents the best possible compromise that could be obtained.

I urge my colleagues to adopt the conference report.

I congratulate subcommittee chairman, JIM SCHEUER for his good work on this legislation and I yield to him at this time.

Mr. Speaker, I yield 6 minutes to the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. I thank the gentleman from West Virginia (Mr. STAGGERS) for his kind remarks. I note my admiration for his strong leadership as chairman of the conference. Through the gentleman's tireless efforts we were able to produce the compromises contained in the conference report.

I am particularly indebted not only to my Democratic colleagues on the conference, but to the gentlemen from North Carolina (Mr. BROYHILL), New Jersey (Mr. RINALDO) and Ohio (Mr. DEVINE), for their work in effecting a workable compromise. This was truly a bipartisan effort.

Mr. Speaker, the FTC has been functioning without an authorization bill for 3 years. H.R. 2313 would authorize appropriations for the FTC for fiscal years 1980, 1981, and 1982, with certain limitations on the use of those funds and the Commission's activities.

This was, and to a certain extent continues to be, a controversial bill. The House and Senate have each closely scrutinized the activities of the Federal Trade Commission and passed strong measures designed to make that agency more responsive to the public and to Congress.

While in some instances the approach by each House was parallel, the majority of the provisions were dissimilar.

First, I wish to note that as a result of the conscientious efforts on the part of the House conferees, we were able to reach an agreement on the legislative veto with the Senate which is as close to the House position as possible. The principal reason the FTC has been without an authorization for the past 3 years is due to the House's disagreement with the Senate on the legislative veto question.

Indeed, the rejection of the first and second conference reports on H.R. 3816, the Federal Trade Commission Amendments of 1978, was a clear message that the House wanted a mechanism to review and veto, if appropriate, the trade regulation rules promulgated by the FTC. That message came across even stronger with the passage of H.R. 2313 by a vote of 321 to 63 and the overwhelming vote of 257 to 115 in favor of the motion to instruct the House conferees to insist upon the inclusion of a legislative veto in the conference report.

H.R. 2313, as passed, contained a legislative veto provision which provided that an FTC rule could be vetoed either when both Houses passed a concurrent disapproval resolution within a 90-day period or when one House passed such a resolution within a 60-day period provided the other House did not disagree within the next 30 days.

The Senate bill did not contain a legislative veto provision. In response to the persistence of the House conferees, the Senate ultimately agreed to accept a legislative veto procedure whereby an FTC rule could be disapproved if both Houses passed a concurrent resolution within a 90-day period.

The legislative veto provision of the bill (section 21) applies to trade regulation rules promulgated under section 18(a)(1)(B) of the FTC Act and substantive rules promulgated under section 6(g) of the FTC Act. Interpretive rules and general statements of policy concerning potential section 5 violations are not subject to the veto mechanism because they are merely guidelines, advisory in nature, and do not have the force or effect of law. It is similarly our intent that the rules of agency organization or procedural practice not be covered under the legislative veto mechanism.

Inasmuch as the one-House form of veto was unacceptable to the Senate conferees, we insisted upon expedited procedures in the House which would prevent the resolution of disapproval being bottled-up in committee. While all resolutions would be referred to the Commerce Committee, the Speaker could also refer them to other committees where germane.

Under the conference substitute, a motion to discharge the relevant committees from further consideration of a disapproval resolution would be in order if the committees had not reported the resolution after 75 days. The motion to discharge could be called up only if the motion had been signed by one-fifth of the members.

When a committee has reported or been discharged of a concurrent resolution, it would be in order to move to proceed to the consideration of such resolution. The motion would be highly privileged in the House and not debatable. Thereafter, debate on the concurrent resolution itself would be limited to not more than 10 hours, divided equally between proponents and opponents of the resolution. The specific amount of time would, of course, be determined by the rules committee. An amendment to the resolution, or a motion to recommit it, would not be in order and it would also not be in order to move to reconsider the vote by which the resolution was agreed to or disagreed to.

I believe that the legislative veto contained in the conference report fully satisfies the obvious desire of the House for a comprehensive oversight mechanism for the FTC.

The conference report reflects a number of compromises on virtually every major issue. We have labored long and hard to arrive at these compromises between the House and Senate conferees. The conference report may not satisfy all the conferees on each issue; however, as my colleague from New Jersey (Mr. RINALDO) noted that, perhaps, is the way it should be.

I would like to discuss how the most important issues were resolved.

First, the conferees agreed that the FTC should be prohibited from issuing a trade regulation rule governing the funeral industry which is the same as or

substantially similar to that proposed by the Commission on August 29, 1975. However, the conference substitute would permit the Commission to issue a rule limited to the following areas:

First. Price disclosure;

Second. Misrepresentations, boycotts, threats;

Third. Tying arrangements; and

Fourth. Furnishing goods or services without prior approval.

Should the Commission issue a final rule, it must publish that rule in the Federal Register for public comment and if appropriate, permit interested persons to present their views orally to the Commission. This section also requires the Commission to provide a mechanism for exempting States from the rule's coverage, if a State's law provides an overall level of protection that meets or exceeds that of the FTC's rule.

However, it is important to note that the requirement is not intended to reopen the rulemaking record for additional evidentiary hearings.

This compromise takes into consideration the view of House Members by requiring a fresh opportunity for the industry to present its views on the record and a recognition that States should be encouraged and given the opportunity to displace Federal regulation.

On the issue of agricultural cooperatives, the conference substitute maintained the intent of the House amendment. A modification in language was made to indicate that the Commission shall have no authority to investigate or prosecute an agricultural cooperative for conduct which is exempt from the antitrust laws under the Capper-Volstead Act.

The Senate amendment to H.R. 2313 contained a provision which would have prohibited the FTC from promulgating a trade regulation rule concerning the development and utilization of private standards and certification activities. The conference substitute adopted the Senate provision with an amendment specifically deleting the Commission's authority to issue a trade regulation rule with respect to "unfair or deceptive acts or practices" under section 18 of the FTC Act. I believe that the substitute leaves unaffected the Commission's authority under section 6(g) of the FTC Act to continue this proceeding and issue rules with respect to "unfair methods of competition" relating to standards and certification activities.

The Senate amendment on insurance provided that the Commission could investigate a particular area of insurance only upon the passage of a concurrent resolution. This procedure seemed not only unnecessarily time consuming but was premised on a theory of the McCarran-Ferguson Act specifically rejected by a House subcommittee. We were able to establish a procedure that allows either Commerce Committee to request the FTC to initiate a study. Once either Commerce Committee has made a request, the Commission will, of course, be able to use its authority to obtain the information necessary to conduct its inquiry from the insurance industry or its members.

Section 11 of the bill restricts the Commission's authority to issue a rule with respect to children's advertising. It suspends the present proceeding until the Commission votes to publish a text of a proposed rule, and it provides that any further action in the proceeding thereafter could be based only upon acts or practices that are "deceptive." By eliminating the Commission's "Unfairness" jurisdiction, there was no intention on the part of the conferees that the meaning of deception should in any way be narrowed from what it is now. As the Senate Commerce Committee report recognizes, deception includes acts or practices that "have the capacity to deceive or mislead consumers" as well as overt misrepresentations. I believe that heavily sugared products, as opposed to toys, present a significant health risk to our children. I personally hope the Commission will continue to examine the problems resulting from the consumption of such products.

In addition, for the life of the authorization, the Commission would be prohibited from basing any new advertising rulemaking proceeding on the grounds of "unfairness." As I indicated before, the bill in no way modifies the historical definition of deception which encompasses situations that have the capacity to deceive or mislead consumers as well as overt misrepresentations. In addition, under this standard, the Commission could challenge advertising claims that are not substantiated. As the Senate Commerce Committee report stated, "the failure to possess substantiation for an advertising claim should be viewed as a deceptive practice."

On the issue of public participation, the conference substitute places a ceiling of $75,000 on the amount any person can receive under the public participation program for any one rulemaking and $50,000 on the amount any person can receive for participation in all rules in any fiscal year. These limitations are, of course, completely prospective and are not intended to apply to funds already allocated under the existing public participation program. The conference substitute also amends section 18(h) by requiring a minimum of 25 percent be set aside for grants to small businesses.

We have been dealing with this problem of the Federal Trade Commission authorization for the last several years. At several times in recent months we have reached critical points. Indeed, the Commission went out of business earlier this month for want of a continuing resolution. It is time the FTC be removed from this budgetary "Twilight Zone" and go about its business of protecting the American consumer under the guidelines deemed appropriate by Congress.

□ 1640

Mr. BROYHILL. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, it is with great pleasure that I rise in support of the conference report which is before the House today. As all of the Members of this body are aware, the Federal Trade Commission has been the center of controversy for some time. This is because the Congress has been unable to enact an authorization bill since 1977. The main point of contention has been the House's insistence on including in any final legislation an oversight mechanism for review of FTC rules. This mechanism is commonly known as the legislative veto. I am pleased that the conferees for both bodies were finally able to work out an acceptable compromise on this issue. The compromise provision directs the agency, when promulgating a rule, to submit that rule to the Congress for review 90 days before it is to go into effect. The FTC rule would not have any force or effect if within that 90-day period, both Houses of Congress passed a resolution disapproving the rule. The conference report also incorporates procedures similar to those included in the Energy Policy and Conservation Act passed several years ago which would guarantee that the disapproval resolutions will be brought to the floor of both bodies before a vote.

During the 93d Congress, we delegated to the Federal Trade Commission the authority to write trade regulation rules governing entire industries. These rules, of course, have the full force and effect of law. The legislative veto mechanism now gives the Congress a means for reviewing how the agency exercises that authority before those rules go into effect. By enacting this provision, the Congress is conditioning the agency's rulemaking authorities on the use of the submittal process outlined above. In my view, it is entirely proper for the Congress to retain for itself the ability to take a first look at rules issued by the Federal Trade Commission before they can become effective.

The conference report contains a number of other significant provisions. For example, we have directed the agency, when issuing a proposed rule and when finalizing that rule, to prepare a regulatory analysis detailing the projected benefits and adverse effects of not only the rule, but alternatives to that rule. The conference report makes clear that if the agency determines to promulgate a rule which is not as cost-effective as one of the alternatives it considered that the agency fully detail its reasons for choosing a rule which includes greater adverse economic effects than the various available alternatives.

The conference report also contains a number of other significant changes to the Federal Trade Commission Act. For example, the conference report prohibits the agency from disclosing confidential business information to anyone other than Federal law enforcement agencies or State law enforcement agencies which could otherwise receive such information through their own compulsory processes and which certify to the Commission that such information will be treated in a confidential manner.

Mr. Speaker, the House conferees accepted the Senate's amendments to section 6(f) of the Federal Trade Commission Act which would give the FTC authority to disclose trade secrets to State attorneys general—authority which Federal courts on at least two occasions have indicated the Commission does not now have.

This has raised some questions in certain segments of the business commun-

ity. My own view is that this provision should apply prospectively, from the effective date of the amendment. Further, I take it to mean that the Commission will exercse some discretion in interpreting this provision and give out that confidential information or those trade secrets which are relevant to a State's investigation or enforcement proceeding; and not just automatically divulge any and all confidential or privileged information which might be extraneous to the law enforcement action or investigation being conducted by a State.

The conference report also prohibits the agency from disclosing any information provided pursuant to the line of business statistical reporting program now in place at the agency. The conference report also directs the agency to use the civil investigative demand procedure similar to that now in place at the Department of Justice whenever it undertakes a consumer protection investigation. This is a particularly useful change in the FTC Act, and I hope that the agency would consider using the CID procedure agencywide.

Both the House and Senate-passed bill contain provisions dealing with specific industries or specific rulemaking proceedings. With one exception—dealing with cases challenging trademarks under the Lanham Act—none of these provisions were included in the conference report in an identical form to that in which they passed their respective bodies. The conferees did, however, try very hard to find compromises on each of these issues. For example, the House-passed bill prohibited the agency from issuing the pending funeral rule or any substantially similar rule for the authorization period. The compromise agreed to by the conference prohibits the agency from issuing such a rule unless that rule meets tightly-drawn restrictions. The compromise also recognizes that for this industry, State regulation is preferable to Federal regulation. Therefore, we have set up a mechanism whereby a State can apply to the Federal Trade Commission for an exemption from the FTC's rule. If the Commission determines that the overall level of protection afforded by the State regulatory scheme, even though that scheme is not identical to the FTC's rule, is as great as that afforded by the FTC's rule, then the FTC is directed to exempt that State from the requirements of the rule.

The purpose of this provision is to encourage State action and, consequently, I would expect that the agency would be liberal in granting its exemption waivers. I also wish to make clear that the conference substitute does not affect in any way the appeal rights flowing from the agency's action to this point. Finally, I want to make clear that the conferees are not necessarily encouraging the promulgation of a rule in this area. To the extent that the problems in the industry can be addressed through voluntary guidelines, I would expect the agency to explore this option.

The House bill also prohibited the FTC from bringing an action against an agricultural cooperative or conducting any studies of agricultural marketing orders for the duration of the authorization period. In the conference compromise, we retained the House prohibition on investigations of agricultural marketing orders. We also prohibited the agency from bringing an action against an agricultural cooperative which was acting within the antitrust exemptions found in the Capper-Volstead Act. The Capper-Volstead Act gives farmers a partial antitrust exemption to band together and market their goods cooperatively.

In my view, Capper-Volstead allows agricultural producers to engage in certain acts which would otherwise be violative of the antitrust laws. For example, an agricultural cooperative may grow with respect to numbers of members and market shares to any size which it can obtain as long as it does not engage predatory practices in order to attract and keep members or obtain a larger market share. On the other hand, we recognize that cooperatives can engage in illegal predatory practices just as other kinds of corporations can and to the extent that a cooperative engages in conduct which is not covered by Capper-Volstead, the antitrust laws will apply with their full force and effect.

The Senate-passed bill also contained provisions dealing with advertising rulemaking and it removed all ability of the FTC to issue new rules dealing with "unfair trade practices." At the present time, the FTC may issue rules prohibiting "unfair or deceptive acts or practices." The Senate provision, in other words, removed the "unfair" standard from the FTC's charter. The conference substitute encompasses three elements. First, with respect to the well-publicized "kid vid" advertising rulemaking proceeding, the present proceeding is suspended until after the FTC votes to issue a proposed rule. Second, the "unfairness" standard generally would be suspended for the life of the authorization period in the bill with respect to all other new rulemakings. Third, the compromise requires the FTC to publish the text of the proposed rule before initiating a rulemaking proceeding. At this point, I wish to add that in the view of at least this Member, the agency is already required under the terms of the Magnuson-Moss Act and the Administrative Procedures Act to issue the text of a proposed rule.

The House should be aware that with respect to the children's advertising rulemaking proceeding, the conferees suspended rather than terminated the proceeding. The conferees were reluctant to formally terminate the proceeding, believing that such action was more appropriately the responsibility of the Commission. The conferees have provided the agency the opportunity to go forward with this proceeding by an affirmative vote of its nondisqualified members, but if the agency chooses to do so, it must provide interested parties a reasonable opportunity to present written and oral evidence for the record, based on the new standard of deception.

Speaking as one Member, I sincerely hope that the FTC will think very carefully before it decides to go forward in this area. I believe that it would be a serious waste of energy and resources for the agency to continue with a rulemaking proceeding in this area. Serious constitutional questions surround any effort to limit truthful advertising of lawful products and these questions were not resolved by the present conference report. In my view, the agency could use its energy and resources to benefit the public in more visible and significant ways without raising the very serious consitutional questions present in the pending proceeding.

Finally, the Senate-passed bill prohibited the agency from bringing any action under the Federal Trade Commission Act to promulgate a rule concerning the development and utilization of private voluntary standards and certification activities. The conference compromise prohibits such action by the Commission under section 18 of the FTC Act. Section 18 of the FTC Act specifically grants the agency the authority to issue rules with respect to unfair or deceptive acts or practices. Section 18 does not affect the agency's authorities, if any, to issue rules under any other section of the FTC Act with respect to unfair methods of competition. Considerable controversy exists as to whether the agency does indeed have antitrust rulemaking authority. I recognize that I am only one member of the conference; however, I have considerable questions as to whether the agency has and should have antitrust rulemaking authority. I believe that the Congress should clarify this issue before the agency attempts to issue rules with respect to unfair methods of competition. I also note that other Federal agencies are becoming more and more active in the area of voluntary standards writing process. I believe that the Federal Trade Commission should defer to these other agencies in this area and would expect that the agency seriously look at the activities of these other agencies before proceeding in this area.

Mr. Speaker, at this time I yield 5 minutes to the ranking minority member of the subcommittee, the gentleman from New Jersey (Mr. RINALDO).

Mr. RINALDO. Mr. Speaker, I support the conference report before us this afternoon and urge that my colleagues adopt it without delay. As you are aware, this is the third Congress in which we have tried to enact legislation to authorize the Federal Trade Commission. Since 1977, the agency has operated without an authorization. We have been presented with some extremely difficult problems in the present legislation, and the conferees have worked very hard to resolve those problems. On the whole, I believe that we have fashioned a good compromise which makes a number of very important changes in the FTC Act.

Probably the most significant provision of the present compromise is the one which would require that the FTC submit its final rules to Congress before they become effective so the Congress could review and possibly disapprove those rules. This provision, widely known as the legislative veto, will give the Congress an important oversight tool to use in reviewing the kinds of rules that the FTC is writing. In the 93d Congress, we delegated to the agency the authority to

write trade regulation rules that have the force and effect of law. In the present legislation, we are reserving for ourselves the ability to review those rules before they go into effect.

The legislation also contains a number of other important provisions. For example, it would require the agency to publish an advance notice of proposed rulemaking before initiating a rulemaking proceeding. It would require that the agency publish a semiannual regulatory agenda describing its rulemaking activities, and it would require that the Commission when engaging in rulemaking activities to analyze the potential benefits and adverse effects of the rules which it is promulgating.

The legislation also puts certain restrictions on the ways in which the agency can release confidential commercial or financial information submitted to it by businesses. The legislation tightens up the subpena authorities of the agency by imposing on the agency a process which is now known as the civil investigative demand process. A similar process is used in the Department of Justice. Although the provisions of the present legislation apply only to CID's issued in investigations done by the Bureau of Consumer Protection, I hope that the agency will consider applying this process across the board.

The conference report also puts certain restrictions on the agency's authority to investigate the insurance industry. As the Members of this body are aware, the agency has no regulatory authority over the business of insurance by virtue of the McCarran-Ferguson Act. However, the FTC was exerting the authority to investigate the insurance industry and write studies on it. The conference clarified the agency's authority by stating that the agency would be prohibited from studying the business of insurance except in instances when they were specifically asked to do so by either of the Commerce Committees of the House or Senate.

The conferees were presented with the very difficult task of coming up with compromise provisions with respect to the agency's regulation of the funeral industry, agricultural cooperatives, television advertising directed toward children and rulemaking activities with respect to voluntary standards writing groups. Although I recognize that everyone is not entirely happy with the compromises that were reached with respect to these matters, I do believe that the conferees did a good job in resolving some very difficult problems.

This conference report makes a number of significant changes to the FTC Act. I feel strongly that it should be enacted, and I urge my colleagues to vote in favor of the conference report on H.R. 2313.

☐ 1650

The SPEAKER pro tempore (Mr. DICKS). The Chair recognizes the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, I rise in support of the conference report on the Federal Trade Commission Act amendments.

When the FTC authorization, H.R. 2313, came before the House last November, I was compelled to vote against it. While I believed it was essential to enact authorizing legislation for this agency, I could not support a bill whose primary purpose appeared to be more that of limiting the FTC's authority and diminishing its effectiveness, rather than extending its existence. The one-House legislative veto, the restrictions on the FTC's ability to regulate funeral industry practices, and the prohibition against investigating or prosecuting agricultural cooperatives were several of the bill's unacceptable provisions. I did not believe then, nor now that the Congress should be in the business of enacting special interest legislation to overrule executive rulemaking.

Although I am not in complete agreement with the bill that has emerged from the conference, I believe it has been sufficiently improved so that I can, in good conscience, vote in favor of it. I still find the legislative veto provision objectionable and question its constitutionality. However, a two-House veto is more tolerable, if indeed a legislative veto provision must be included, and the availability of expedited judicial review promises at least a resolution of the legal questions raised by such a provision. Similarly, the removal of most of the restrictions on FTC proceedings regarding the funeral industry and agricultural cooperatives renders the conference bill more acceptable.

I remain distressed that this Congress has capitulated to the special interest groups that have waged an onslaught against an agency that is fulfilling its legislative mandate. Congress had clearly intended to make the FTC independent from executive and legislative interference so that it could enforce fair trade practices on behalf of unorganized and vulnerable consumers. This bill unfortunately demonstrates that this is no longer the case. The provisions in the conference bill limiting the FTC's ability to promulgate rules on advertising directed at children and banning their investigation of the insurance industry are excellent examples of the ability of interest groups to achieve their selfish ends. I am concerned that the precedent of these provisions, in addition to the legislative veto, will provide an invitation to every special interest group and association to attempt to circumvent the regulatory process through legislative intervention.

I ask my colleagues to join me in voting for this compromise bill so that the only agency mandated to protect consumers can continue its vital work, unhampered by the uncertainty of continuing resolutions or transfers of appropriations. The closing of the FTC for one day this month should serve as a reminder of the consequences of forcing an agency to function on a month-to-month basis. Nevertheless, I strongly urge my colleagues to remain wary of the possible ramifications of this legislation. In the years to come we must remain steadfast and vigilant against pressures from well-financed special interests who will undoubtedly continue to try to flex their considerable muscle here in Congress in an attempt to weaken and undermine the Federal Trade Commission.

Mr. STAGGERS. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I thank the chairman of the committee, for whom I have the greatest respect, for yielding.

Mr. Speaker, we have a choice today. We can either support a bad bill, one that cripples the FTC, or we can put the FTC out of business. I did not sign the conference report because I could not endorse crippling an agency that has diligently fought for the consumer. But I will vote for the report because the alternative is far worse. Nonetheless, if we are to support this report, we must be sure to tell the American people what happened to the public interest in consideration of this bill, in order to seek to prevent similar special interest assaults on future legislation.

This conference report puts the American people on notice. It tells them that unless they become more diligent and politically active, they will not be protected by the Federal Government when those with money and influence are determined to buy the direction of public policy. It tells them that the public interest can too easily become a commodity for sale to the highest bidder.

At the beginning of this conference, I offered what many saw as a reasonable compromise. It guaranteed Congress the right to review any new FTC rulemaking. That right makes it unnecessary for this bill to halt specific rulemakings in midstream, since every controversial issue considered for exemption by the conference committee would eventually be subject to legislative review.

But neither House nor Senate conferees have been willing to defend the FTC against the onslaught of special interests. Opponents of the agency have wielded the expiration of funding as a club in negotiations. The public interest has never been an issue.

Today we will hear all the excuses for a bill that only money could buy. We will hear that it is a reasonable compromise. We will hear that none of the special interests got everything they wanted.

Our colleagues will argue today that the FTC has grown too powerful, and this bill curbs those excesses. They will argue about unnecessary regulation and invalid hearings. They will ignore the questions that hang over this entire debate:

If Congress is given the right to review new rulemakings, why should it interrupt these rulemakings with new conditions and instructions? If a hearing may be invalid, why not determine that during the procedure created to review that hearing? Why put certain industries beyond the reach of the law?

We have heard no answer to these questions because the answer is an embarrassment to this institution. The special interests and their allies in Congress cannot win a debate on the merits of their arguments. They can only win by threatening to put the FTC out of business if we do not go along.

Those of us supporting the FTC and its work on behalf of the consumer have been given a choice: a crippled FTC or no

FTC at all. This conference report makes that choice; it promises a crippled FTC.

The FTC wanted to continue its studies of the insurance industry, studies which many States have found invaluable in their regulation of that industry. This bill severely restricts those studies.

The FTC wanted to open up the procedure by which industry sets the standards for products. This bill clamps limits on that effort.

The FTC wanted to enforce the law concerning the use and cancellation of trademarks. This bill stops that attempt.

The FTC wanted to continue its efforts to study and regulate abuses by some huge agricultural cooperatives, efforts which this bill modifies.

The FTC wanted to address one of the most complex and vexing questions facing our society today: whether children should be subject to the same television advertising standards established for adults; or whether children should, in some way, be protected from sophisticated manipulation techniques which they could not possibly understand. This bill limits the FTC's effort while eliminating fairness as a criterion in the regulation of television advertising.

Worst of all is the embarrassment we all face at the hands of the funeral industry.

The FTC has suggested that funeral directors itemize their bills, produce price lists, and reveal those prices over the telephone on request. Such suggestions would seem to fall within the category of good business practices. This bill would restrict the FTC's efforts.

Yet the funeral industry is not satisfied. It seeks to be exempted from regulation altogether by legislative fiat. This bill is already an embarrassment. Let us at least prevent the funeral industry and its bidders from turning this bill into a humiliation.

The proponents of this conference report, it is true, argue that it in no way states that business ought to cheat the American people. It merely suggests that efforts to prevent that cheating will be stopped.

This bill is a warning to the FTC that its attempts to restore fairness and competition to the marketplace have incurred the wrath of industry, and that Congress will do the bidding of industry.

We must support this bill, however reluctantly; it is certainly better than closing the FTC again. But as we support it, we should warn the American people: the public interest has suffered in this bill at the hands of the special interests. When the FTC again stands up for the public interest, those special interests will be back. If consumers have any hope of preserving their rights, they had better start preparing now.

Mr. BROYHILL. Mr. Speaker, I yield 10 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I am going to vote for this conference report on H.R. 2313. But in my judgment it does not go nearly far enough in curbing the FTC as it should have.

The FTC is a rogue agency run amok, but some kind of restraint is better than no restraint at all. H.R. 2313 does provide some restraint. The FTC has been working with no accountability to the people or the people's representatives. Thank Heavens that this bill at least provides for some minimum accountability.

Mr. Speaker, I regret to inform the House that the FTC has apparently learned nothing from its travail of the past couple of months. If any Member is curious enough to want to know why FTC funding was allowed to expire or why many Members, including myself, were not displeased when the FTC lost its funding, he or she should review some of my files on the FTC's handiwork on local people in my area.

One such instructive file is that of the FTC's work on the St. Paul and Minneapolis Health Maintenance Organizations. It is not the only case of complaint I have but it is a good example of why FTC has so few friends in this world.

Mr. Speaker, since last December, the FTC has been involved in an investigation, or, more accurately, a fishing expedition, of medical control of HMO's. The New England Journal of Medicine has cited the twin city area of Minnesota, with seven HMO's thriving in the area, being one of the few examples of a competitive health care system. Thus the Hennepin County Medical Society and the Physicians Health Care Plan in Minneapolis were surprised, chagrined and embarrassed to receive a subpena to appear at a hearing and furnish extensive documentation to the FTC.

There was no request, no discussion, no accusation, just a subpena. Only after very difficult compliance and extended negotiations so that they could complete the FTC's request, the health groups were told that the subpenas were informational rather than accusatory as the health groups had been led to believe.

The FTC in this case told our doctors that the documentation requirements were moderate. One single request of a small HMO required 2,700 different pieces of paper that had to be all carefully reviewed before submission.

Our local doctors did not think that was a moderate requirement. They only wanted to heal the sick. They did not think their job was shuffling papers for fishing bureaucrats. The FTC said our doctors should not complain about harassment or expect reasonable treatment from the FTC but said instead they should go to court and seek a motion to quash the subpena. Our local people do not operate that way. They expect to deal responsibly and reasonably with their own representatives in the bureaucracy.

Instead, they are treated like some kind of criminals by the FTC. Their discussions with FTC are unfruitful and the letters that they receive from the FTC are arrogant and absurd and ask for insane amounts of information which is difficult to provide.

I do not think our people should have to go to court to get reasonable treatment from our own public servants in the bureaucracy.

Mr. Speaker, I would like to have some of my colleagues review this file with me. I think we all would be outraged to receive the kind of correspondence that the FTC has been sending to those medical groups. That is in spite of the fact that none of these medical groups is under accusation of any kind of wrongdoing. It is as I said before, a fishing expedition by the FTC. Yet each was required to present all this extensive documentation.

Now, Mr. Speaker, one of these groups, the Physicians Health Care Plan, estimates that its costs for providing all this junk for the FTC, and providing extra junk after the first junk was provided because the first junk apparently did not fit the assumptions that the FTC had already made, already are $25,000. Now $25,000 may seem a very tiny amount to this giant bureaucracy, which chews up the taxpayers' money as though it were jelly beans, but it is an awful lot to a small health care maintenance operation in my town and that $25,000 gets laid back on to the creaking backs of the sick patients of that HMO.

□ 1700

The FTC thinks it is OK to layoff all of its costs on the consumers. That is the way the FTC tries to protect consumers, by increasing costs with this idiotic chase after paper so that some 12th level bureaucrat, some GS–9, can have his or her silly assumptions verified or unverified by tons of paper at the consumer's expense.

I do not think that kind of request is moderate. I do not think people should have to go to court to defend themselves from this kind of an agency. And I do not think our consumers, whatever kind of consumers they are, whether they are the sick in this case, or the people who try to heal the sick, or just ordinary people who try to buy things at a reasonable price in the marketplace, should have to pay that unnecessary, arbitrary, whimsically applied cost that the FTC lays on them for its insane paper chase.

Mr. Speaker, I am sorry for this outburst, because I am usually a more moderate fellow than this, and I seldom get excited about agencies of the Government. I think it is probably unreasonable to state that FTC's charter should be totally repealed, and yet after extensive correspondence and discussions with the FTC, I can get no satisfaction from them. I can find only arrogance and lack of accountability.

So, I would respectfully request of those people who call themselves friends of the FTC, who are trying to preserve some of the FTC authority, who really believe the FTC is doing a good job for the consumers of this country, that those friends try to straighten the FTC out. Try to get them to deal with people in a reasonable manner. Try to purge their ranks of the people who abuse the public and lay unnecessary costs on consumers. Do this so that we do not have to go through this awful routine year after year after year.

I really despair of having the ability to retrain the FTC so that their people can do useful and productive work, but I think the very least we can expect from them is some common courtesy and human decency in dealing with the people with whom they must do business every day.

Mr. Speaker, I regret the necessity to make a speech of this nature. I realize it is intemperate, and yet I feel so strongly about this matter, and I would urge the members of the committee who deal

with this agency to do what they can to rehabilitate it and make human beings out of an agency that was originally charged to help human beings.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding. I do not go quite as far. I have not had quite such a bitter experience in my district. However, like many an agency it is out of control. There is absolutely no doubt of the arrogance and indifference with which people are treated by the agencies of our Government. We spend enormous sums hoping the agencies will bring some comfort and help to people, will establish some kind of justice, but the individual is forgotten in the process. I think I can tell the Members why.

I struggled with the Federal Trade Commission, asking them to help out in an interstate fraud. Companies in three other States—not my own—were involved. As consumer director I could not protect my people, but the Federal Trade Commission was not interested. They said they could not touch cases of that kind. Now, what happened? I met finally a member of one of the very important bureaus in the FTC, and I am telling you the truth.

I said, "I had 300 letters and you would not move, and yet you moved on the basis of 6."

The answer: "Oh, I never pay any attention to letters. Only cranks and kooks write letters."

I was moved to say, "That is an extraordinary way to speak of my constituents and the people who pay your salary and mine. What do you pay attention to?" And this was his revealing answer: "Statistics."

Statistics. Sociology IV does not perhaps teach how to deal with human beings who have problems. And there is the difficulty. But, it is not just the FTC, gentlemen. It is HUD also. We had a terrible struggle in order to get some priority for elderly people who wanted to live in elderly housing being built in their own home town. We had a struggle with Human Resources, formerly HEW, trying to save a 95-year-old woman from having to be moved out of a nursing home endorsed by our State doctor in charge of licensing. The agencies are more interested in their regulations than they are in the affect the regulations are having on the human beings in our districts.

The SPEAKER pro tempore. The time of the gentleman from Minnesota has expired.

Mr. BROYHILL. Mr. Speaker, I yield 2 additional minutes to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank my colleague, although I never ask for extensions of time.

All I am saying is, we stand between them—our constituents, and the agencies—struggling to get some humanity into the dealings of this Government with ordinary human beings who have no special influence; they count on us to try and somehow humanize the Government. I keep thinking of Dubcek in Czechoslovakia and his struggle to give socialism a human face. I spend my life trying to give our agencies a human attitude. I do not know the experience of all the Members, but when I get to my office at 6:15 in the morning, it is to read such letters. It is not for the important stuff, that is during the day. My night time and my early morning goes to those kinds of people writing this kind of letter.

We must make this Government more responsive to the human beings who pay for it.

Mr. FRENZEL. I thank the gentlewoman for her comments. I would only sum up my thoughts by saying that if this agency cannot improve its performance, cannot come up to some expectation of common courtesy and human decency, we are going to be in one of these wars every year, and some year there is not going to be an FTC.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I am in favor of the conference report with the same reservations as the gentleman from New York (Mr. OTTINGER) expressed.

Mr. STAGGERS. Mr. Speaker, I yield such time as he might require to the gentleman from Texas (Mr. HIGHTOWER).

Mr. HIGHTOWER. Mr. Speaker, I rise in support of the conference report on H.R. 2313 and I wish to add my views on a matter that has generated great controversy before both the Authorization and Appropriation Subcommittees who share the responsibility of overseeing the Federal Trade Commission. That matter is the proposed ban of television advertising to children, commonly known as the "Kid Vid" rule.

The Appropriation Subcommittee which oversees the FTC, and on which I serve, has had occasion over the period of this Congress to review the activities and programs of the FTC in some detail. We have been, from time to time, critical of many of the activities and programs the Commission has undertaken. But no single activity or program undertaken by the Commission has been more difficult or more fraught with constitutional and due process hurdles than the so-called children's television rulemaking proposal.

When this rulemaking was first proposed, the Federal Register notice failed to inform either proponents or opponents precisely what the text of the rule would look like, nor did the staff perform a meaningful analysis the economic impact a rule might have on the broadcast industry, the advertising industry, or the industries of any of those who would be regulated by it. The rule flew in the face of protections afforded under the first amendment.

Rulemaking in this field was immediately labeled by the media as an effort by the FTC to place the Federal Government in the position of being a "national nanny" to America's children. And, the novel procedures employed by the Commission to conduct this particular rulemaking were characterized by the U.S. Court of Appeals for the District of Columbia as "window dressing for the benefit of a court passing on a final trade regulation rule that was in stock long before its tentative models were displayed." That court went on to say that the Commission's activities in the Kid Vid rule "suggests that it long ago settled on what it had in mind and deliberately fashioned its special rules to achieve that result with the fewest possible outside instrusions from precisely the parties Congress intended to have participate in a proceeding of this kind."

In short, this Kid Vid rule is a bad idea. And the Commission's inadequate notice, novel procedures, and its attempt to overreach even the constitutional protections of the first amendment, have resulted in some of the most serious criticisms the FTC has had to endure.

This conference report makes clear the displeasure of Congress with this sort of regulatory activity by the FTC. If the Commission has learned anything in this exercise, it should have learned that this particular rulemaking should die a natural death, and the quicker the better for the future credibility of this regulatory agency before Congress. I, for one, hope the improvements made in the Magnuson-Moss provisions by this authorization will help the Commission to avoid making these kinds of mistakes in the future. Closer scrutiny and a little more judgment from the Commissioners should help to avoid unnecessary controversies like this in the future.

Mr. STAGGERS. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. LUKEN).

Mr. LUKEN. Mr. Speaker, I rise in strong support for the conference report to accompany H.R. 2313, the Federal Trade Commission authorization bill. We, the conferees on the part of the House, have returned to this Chamber with a bill that is fair and clearly sends the signal to the FTC that we do not want it to run roughshod through the private sector of the economy. For the first time in 3 years, we are now able to provide to the Commission the guidance and direction from the Congress that it has needed.

We have witnessed the FTC intervene in the private sector with investigations into the insurance industry, which historically is within the jurisdiction of the States, begin a rulemaking on children's television advertising, without even publishing a proposed rule, began a second rulemaking on agricultural cooperatives where jurisdiction generally belongs with the Department of Agriculture, and took administrative actions to strip a company of its rightful trademark as an innovative method for enforcing antitrust laws. These are actions which the Congress quite clearly does not approve of. We now have the moment at hand to tell the FTC to stop these actions and to live within the boundaries that the Congress is establishing for it.

I am the author of an amendment to this bill which restricted the authority of the FTC to petition to cancel trademarks because the trademark has fallen into common or generic usage. The test that the FTC took up was the possible cancellation of the trademark "For-

mica." In examining the case that the FTC had compiled against the Formica name, it was quite clear to me the FTC has no suitable reason to cancel the trademark, there was no proof of restriction of trade, too large a share of the market, or any form of anticompetitive behavior.

However, because the FTC could bring the full weight and "fortune" of the Federal Government to bear on the question of genericness, there was a real possibility that the trademark could be canceled. As was clearly pointed out in hearings before Chairman KASTENMEIER'S Judiciary Subcommittee, the concept of what is a generic trademark and what is not, is such an unclear legal question that it defied definition after several hours of testimony by some of our greatest legal experts on the subject.

Because of the inability to define generic trademarks, there seemed little justification for allowing the FTC to continue in this unnecessary action. My amendment will bar the FTC from trying to cancel a trademark on the grounds that the mark was common or generic. It does not prohibit the FTC from taking the same action under different authority, nor does it prohibit an action by a company in the private sector. This amendment is still in this conference report and is a clear indication that the Congress is reasserting its authority to control Government regulations, actions and rulemaking. I am a firm believer that the economy would work much better if the Government reduced interventionist, bureaucratic tendencies. My amendment is just one step in that direction.

The House has made it clear that it considers the use of a legislative veto as an essential tool in controlling burdensome Federal regulations. This conference report contains this important feature. As many will recall, it was the lack of this veto provision that prevented us from reaching agreement on an authorization bill in the 95th Congress. I firmly support the inclusion of a legislative veto so that the Congress may, if it chooses to do so, have a final say on Federal regulation. Clearly the legislative veto is a major step in this Congress attempts to reassert control over Federal regulatory agencies.

The conference also took a major step in halting the rulemaking actions of the FTC regarding children's television advertising. The requirements added by the conference committee will force the FTC to reexamine the whole issue, publish a proposed rule which it had not done and proceed under more stringent grounds, if the case can be made. We could not allow the Commission to continue, willy-nilly on this rulemaking. The conference correctly required the FTC to start over, and on more substantial grounds if it is inclined to take actions in this area.

The Senate in its original bill did include a restriction on the FTC's rulemaking regarding voluntary standards setting organizations and the methods they employ in setting voluntary standards. The conference in its actions ruled that the rulemaking started by the Commission is probably not a question of unfair or deceptive acts or practices as defined in section 18 of the FTC Act, but rather, a question of unfair methods of competition as found in section 6(g) of the FTC Act. Although the conference report is silent on this point, the FTC may continue its standards and certifications rulemaking procedures under 6(g). Of course, the ultimate question of the FTC's authority in this regard is left with the courts. The courts have already ruled that the FTC does have rulemaking authority under 6(g), the *National Petroleum Refiners Association* v. *FTC*, F. 2d 672 (1973), Reh. Den., Cert. Den., 415 U.S. 951 (1974).

There are those who will claim that we did not act in the best interests of the consumer, that we caved into a variety of powerful, special interests. I think the people want the Congress to lead the Government, not to sit idly by while unelected and sometimes single vision bureaucrats develop regulations that continue to hamper the private sector with no appreciable improvement in the problem we were supposed to solve in the first place. We have not killed the FTC. We have brought it back under control, we have placed the Congress in front of the Commission, calling the shots because that is the way our Government is supposed to operate. The Federal Trade Commission has multiple responsibilities that it must undertake and carry out. I for one, support many of the responsibilities, but I cannot allow the FTC to lead a stampede of Federal regulation that is unnecessary, unwarranted, and unneeded.

I hope that all of my colleagues will join with me in supporting the Federal Trade Commission conference report. I believe that it strikes the proper balance between congressional control and the need for consumer and business protection.

□ 1710

So, Mr. Speaker, I am fully in support of this conference report, and I congratulate the leadership of the conference in bringing it about.

I would like to engage in colloquy briefly with the chairman of the subcommittee.

Mr. Speaker, H.R. 2313 amends section 6 of the FTC Act to say that the FTC may issue reports and studies relating to the business of insurance only if requested by the Commerce Committee of either House. Does this affect the FTC's law enforcement authority with respect to health care plans, including health maintenance organizations and individual practice associations?

Mr. SCHEUER. Mr. Speaker, will the gentleman yield?

Mr. LUKEN. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, H.R. 2313 only addresses section 6 of the FTC Act, which covers the FTC's authority to issue studies and reports. The amendment does not alter the current extent of the Commission's law enforcement authority under section 5 of the FTC Act. The McCarran-Ferguson Act already exempts from the Federal antitrust laws, including the FTC Act, the "business of insurance" to the extent it is regulated by State law, unless a boycott, coercion, or intimidation is involved.

Whether particular activities of health care plans are the business of insurance under McCarran-Ferguson has not been fully decided by the courts, but the Supreme Court has recently given some guidance. In its 1979 Royal Drug decision, the Court said that arrangements by a health plan for the purchase of goods and services do not constitute insurance because they do not involve the spreading and underwriting of a policyholder's risk—which the Court called "an indispensable characteristic of insurance." The Court said this is true regardless of whether these provider agreements are regulated by the States or were regulated by the States when McCarran-Ferguson was enacted.

Therefore, to the extent that an activity of a health plan does not involve the spreading and underwriting of the policyholder's risk, it would not be "the business of insurance" under the Supreme Court's ruling. If the plan's activity in question is risk spreading and underwriting it may be "the business of insurance."

Mr. LUKEN. Mr. Speaker, I thank the gentleman from New York (Mr. SCHEUER), and I urge adoption of the conference report.

Mr. BROYHILL. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, I know 1,500 people in Columbus, Ohio, who would be tickled to death if the FTC had its funeral today and were carried out and would be dead forever.

It was through action of the Federal Trade Commission, through its Bureau of Competition, if you please, that they arbitrarily made a decision that did not permit Federal Glass of Columbus, Ohio, to be the subject of acquisition by Lancaster Colony. They said, "Well, this would stifle competition." Well, it did not stifle competition, but it created more of a monopoly because the FTC did not change its decision.

Federal Glass went out of business, and 1,500 persons who had been in the employ and business of the company which had been in existence over 50 years were gone. I can assure the Members that those 1,500 people would love to see the FTC and its personnel put to bed the same way they were.

Mr. Speaker, I was a conferee on this bill, and I am rising in reluctant support of the conference report, keeping in mind what the alternatives may be. If we did not accept this conference report, it might die, but I doubt if that would happen. There are enough supporters around here and enough of a bureaucracy to support it so that they would probably keep it going under a continuing authorization. That would give them all the control and authority they already have, and it would not be as restrictive as it would be if we adopted this conference report.

On that basis, Mr. Speaker, I reluctantly rise in support of the conference report.

Mr. STAGGERS. Mr. Speaker, I yield

1 minute to the gentleman from California (Mr. COELHO).

Mr. COELHO. Mr. Speaker, I rise to support the Federal Trade Commission conference bill and in particular to congratulate the conferees on taking the important step of reaffirming the Capper-Volstead Act. We will no longer have to hear the argument that the Capper-Volstead Act was "depression era" legislation. Section 20 of the bill ratifies the intention of Congress in adopting the Capper-Volstead Act to foster and encourage the organization and operation of agricultural cooperatives.

The fact is that it is only through participation in agricultural cooperatives can the small independent farmer retain his identity and still compete in the dynamic marketplace. The role of agricultural cooperatives in my State of California has been admirable in all aspects of agricultural marketing, including exports. Anyone who has ever farmed knows the difference between participating in the distribution and marketing of an agricultural product by a grower member of a cooperative as contrasted to the farmer who must merely sell his crop at a cash price to a giant conglomerate.

By clarifying that the Federal Trade Commission does not have authority over conduct which is protected by the Capper-Volstead Act, we will help remove the uncertainty that has existed with respect to antitrust enforcement agains cooperatives.

This legislation represents an important step forward for U.S. agriculture by improving the climate in which our agricultural cooperatives operate.

Mr. BROYHILL. Mr. Speaker, I had promised the gentleman from Illinois (Mr. RUSSO) that I would yield him some time, and I now yield the gentleman 4 minutes.

Mr. STAGGERS. Mr. Speaker, I yield 4 additional minutes to the gentleman from Illinois (Mr. RUSSO).

The SPEAKER pro tempore (Mr. DICKS). The gentleman from Illinois (Mr. RUSSO) is recognized for 8 minutes.

Mr. RUSSO. Mr. Speaker, I rise today to discuss what happened to what has become known as the Russo amendment on the Federal Trade Commission's funeral services investigation. That amendment was passed by this body on November 14 of last year by the overwhelming vote of 223 to 147.

Yesterday I issued a "Dear Colleague" letter which spelled out all the facts of the situation, and I will include that in the RECORD at the end of my remarks.

I was appointed a conferee to represent the House position on the funeral amendment, and I did so when offered the opportunity. However, in all candor, the opportunity was scarce.

What I am here to discuss may be summed up in two words: "due process." If the Members recall, the main reason I brought the funeral issue to this body's attention in the first place was the question of process. I maintained, and correctly so, that the FTC launched a vendetta against the funeral industry. They were biased from the beginning, did not follow proper administrative procedures in many instances, and, I believe, violated the law at times.

It was, therefore, difficult for me to perceive that that same sort of performance would exhibit itself in a congressional conference on the FTC. But it did.

I was appointed an FTC conferee on my amendment alone. Unfortunately, I was never dealt with directly on my amendment with all of the conferees. I could not even discuss a possible compromise to my amendment with the Senate because the House conferees voted against it. In my opinion, the House position on the funeral rule was totally negated by certain House conferees.

Shortly after the first conference meeting, I met with three House conferees who wanted to discuss with me a possible compromise on the funeral rule. Now, remember, I said the House conferees wanted to compromise our position in the House.

It essentially was the compromise that was finally approved, so do not believe that it was the Senate that came up with the funeral compromise; it was a few of the House conferees. When I asked these House conferees for a written copy of that compromise to study, my request was refused because they said, "Nobody else has it, and we don't want it to be leaked out."

After that two of the House conferees held several meetings with some of the Senators. Supposedly, they were representing the House position on all the issues.

After I objected to what was going on in a letter to the Speaker. a meeting of the House conferees was scheduled for April 24. This was almost 2 months after we had been appointed. At the time, however, I was unfortunately, in the hospital. By letter I asked the chairman of the conferees to delay discussion of my amendment until I could be present. They did not. Some of them had stalled around and operated in secret for 2 months, but they could not wait a few more days to discuss my amendment.

□ 1720

They accepted the phony Senate compromise. I say "phony" because I have already explained its origin.

On April 30, prior to the full conference meeting, I met with the other House conferees. I told them that their compromise was a total sellout of the House position. I offered a compromise of voluntary guidelines at that meeting. My offer was voted down 5 to 4. This meant that I could not even offer my compromise to the Senate because the House conferees blocked my effort.

Now, remember, they are appointed to sustain the House position. Yet they blocked me from even offering it, after refusing to allow me to even discuss it for 2½ months.

We adjourned from that meeting, we went to the Senate, and the full package was approved. It is important to note that, although our chairman gave a letter to the Senate stating that we were unanimous, we were not. I did not favor the compromise, and I know of another conferee who felt likewise.

Unfortunately, this is not the end of the story. When the conference report was issued, I found out that the language in the explanatory statement was much broader than the compromise. Why, I do not know. It is clear, however, that the House position was totally negated. I feel it is important that my colleagues know what has transpired. We cannot continue to say, "The will of the majority be damned," and act accordingly. That is what happened in this conference. An overwhelming majority vote in the House was totally ignored by the House conferees.

I was a conferee, but I really was not. All the House conferees never sat down together and discussed all the issues. Obviously, a decision was made somewhere, and that was that. I am saying, then, that I do not feel that the House position was fairly represented in this conference because of the action taken by certain of the House conferees.

I do not know how other Members feel about other issues in this bill, but I believe it is my duty to report to you on the amendment you charged me with protecting on February 28. How you decide on the overall bill is up to each and every one of you. You now have the facts on the funeral amendment.

At this point, Mr. Speaker, I would like to ask my colleagues, the gentleman from New York (Mr. SCHEUER) and the gentleman from North Carolina (Mr. BROYHILL), why the explanation of the funeral compromise is not accurate. The funeral compromise allows the FTC to consider a new rule based upon the following, and I quote, and I take this time for legislative history:

(c)(1) The Commission shall have the authority to use the funds specified in subsection (b) to issue the funeral trade regulation rule in final form only to the extent that the funeral trade regulation rule (in its final form)—

(A) Requires persons, partnerships, and corporations furnishing goods and services relating to funerals to disclose the fees or prices charged for such goods and services in a manner prescribed by the Commission; and

(B) Prohibits or prevents such persons, partnerships, and corporations from—

(i) Engaging in any misrepresentation;

(ii) Engaging in any boycott against, or making any threat against, any other person, partnership, or corporation furnishing goods and services relating to funerals;

(iii) Conditioning the furnishing of any such goods or services to a consumer upon the purchase by such consumer of other such goods or services; or

(iv) Furnishing any such goods or services to a consumer for a fee without obtaining the prior approval of such consumer.

Yet the language of the joint explanatory statement of the conference committee says, and I quote:

The conference substitute adopts the House provision with an amendment which prohibits the Commission from issuing a funeral rule unless that rule is limited to mandating price disclosures—and these are the key words—banning deceptive or coercive practices, and prohibiting unlawful practices such as boycotts or threats.

One question is: Where did the phrase "banning deceptive or coercive practices" come from? That is the general term describing most of the FTC mandate. It is not part of the compromise. It is not con-

tained in the letter sent by the Senate to the House.

I would like the gentlemen to explain that provision.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. RUSSO. I yield to the gentleman from North Carolina.

The SPEAKER pro tempore (Mr. MURTHA). The time of the gentleman from Illinois (Mr. RUSSO) has expired.

Mr. BROYHILL. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois.

Mr. Speaker, in my judgment the words "deceptive or coercive practices" are descriptive of what is the controlling words in the conference report, and that is boycotts or threats, and is not meant to add to in any way the prohibition against a person's engaging in boycotts or threats.

Mr. RUSSO. Mr. Speaker, as I understand the compromise, the compromise was discussed as limiting the original rule, and this is the best possible compromise we could achieve. But adding the words "coercive and deceptive practices" brings us back into the entire full mandate of the FTC, which brings us back to the original full rule.

Mr. BROYHILL. I do not agree with the gentleman because, in my judgment, "coercive" describes boycotts or threats.

Mr. RUSSO. I thank the gentleman for his comments, and I thank the gentleman for yielding me time.

Mr. Speaker, I insert in the RECORD at this point my "Dear Colleague" letter:

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 19, 1980.

Re Federal Trade Commission Amendments
Conference Report No. 96–917.

DEAR COLLEAGUE: "The law embodies the story of a nation's development through many centuries, and it cannot be dealt with as if it contained only the axioms and corollaries of a book of mathematics."—Oliver Wendell Holmes, Jr.

Tuesday, I intend to take the House Floor because the Members of this body should be aware of what transpired during the Federal Trade Commission conference and the manner in which the House position was represented. The questions I intend to raise relate to the basic questions of due process both here in the Congress and at any agency where the Congress delegates some of its legislative responsibility. I am not here to again argue the entire funeral rule issue. I am here because, while I am disappointed, frustrated, and frankly disillusioned, I nevertheless believe it is my duty to make sure that all the facts are presented to this body.

My position has never been that the FTC should cease to exist. Over the years they have done many fine things for both small business and consumers. What I have tried to point out is that in recent years they seem to have lost their way, and we in the Congress are to blame for the most part.

Under the Magnuson-Moss Act we expanded the agency's powers greatly, yet have performed little effective oversight which is why we are where we are today. These are not just my sentiments. Let me quote the Administrative Conference of the United States on the FTC's rulemaking activities:

"The Administrative Conference's study of the implementation of the Magnuson-Moss Act by the Federal Trade Commission provides compelling evidence that when the underlying grant of authority to an agency is as broad as that in Section 5 of the Federal Trade Commission Act, hybrid rulemaking procedures are not an effective or efficient means of controlling agency discretion."

We need to take a much closer look at what has been going on at the FTC. I attempted to point out many of the abuses that occurred during the funeral investigation during our debate on November 14, 1979. (An appendix to this letter details the issues.) The House voted 223–147 to end that FTC venture.

I was then appointed a conferee on my amendment alone. Unfortunately I was never dealt with directly on my amendment. I could not even discuss a possible compromise to my amendment with the Senate because the House conferees voted not to let me. In my opinion, the House position on the funeral rule was totally negated. While I am not as familiar with the other issues the House voiced their opinion on, I believe the Andrews amendment and our legislative veto were for the most part negated also.

I believe a brief chronology of what happened is necessary for the record. It appears to me that the Rules of the House may need to be changed. Due process obviously suffers in conference as well.

On February 20, Senate conferees were appointed. On February 28, the House conferees were appointed. On March 13, all conferees met and for the most part did nothing other than to instruct the staff to get together and discuss the differences in the two bills.

Shortly after that I met with three House conferees who wanted to discuss with me a possible compromise on the funeral rule. It essentially was the compromise that was finally approved. So do not believe that it was the Senate that came up with the funeral compromise; it was a few of the House conferees. When I asked the House conferees for a written copy of the compromise to study, my request was refused.

On March 26, all the conferees met and discussed what were termed "minor issues." Following this meeting apparently two of the House conferees met several times with some Senators. Some would term these meetings "secret", others would term them "informal."

On April 16, I wrote to the Speaker asking him why all the House conferees had not met to discuss the issues.

On April 24, nine of the seventeen conferees were invited to the White House to discuss the bill with the President. Contrary to various reports, I was never invited to that meeting. On the same day the House conferees met on a Senate package proposal. The package had been sent by Senator Cannon on April 17. I received a copy of the package at 2:00 p.m. on April 22 after having called and asked why I had not received a copy.

Unfortunately, I was hospitalized on April 23, the day before the meeting. I wrote the House conferees asking that they postpone discussing my amendment until I could be there. They went ahead and voted to accept the compromise anyway. Apparently they believed time was of the essence. Although two months had passed with little activity, a few more days on my one amendment was out of the question.

On April 30, prior to the full conference meeting I met with the other House conferees. I told them that their compromise was a total sell-out of the House position. I offered a compromise of voluntary guidelines. My offer was voted down 5–4. This meant I could not even offer my compromise to the Senate because the House conferees blocked my effort.

We adjourned, went to the Senate, and the full package was approved. It is important to note that although our Chairman gave a letter to the Senate stating that we were unanimous, we were not. I did not favor the compromise and I know of another conferee who felt likewise.

Unfortunately, this is not the end of the story. When the conference report was issued, I found out that the language in the explanatory statement was much broader than the compromise. Why, I do not know. It is clear, however, that the House position has been totally negated.

I believe it is important that my colleagues know what has transpired. While much of what I have said may be old hat to some of you, it is new to me. We in the Congress must change our ways or we will continue to sink lower and lower in the public esteem and rightfully so. We can't continue to say, "the will of the majority be damned" and act accordingly. That is what happened in this conference. An overwhelming majority vote in the House was totally ignored.

I was a conferee but I really wasn't. All the House conferees never sat down together and discussed all the issues. Obviously, a decision was made somewhere and that was that. On to the next bill.

I am saying then that I do not feel the House position was fairly represented in this Conference because of actions taken by certain of the *House* conferees. I believe in telling people where I stand and in sticking by my word. My actions on this Amendment reflect this. I would hope the House of Representatives could feel that this same attitude would be present in its work on the Floor and in Conference.

Quite frankly, I did not like what I saw during the FTC conference and I don't think a lot of you would either. You should be concerned with what happened and that is why I have taken the time to tell you.

Sincerely,

MARTY RUSSO,
Member of Congress.

APPENDIX—THE FEDERAL TRADE COMMISSION AND DUE PROCESS

In 1976, I was in my first term in the Congress. During that year I was a member of a Small Business Subcommittee chaired by our former distinguished colleague, William L. Hungate of Missouri. The subject of some of his hearings was a proposed Federal Trade Commission regulation and its effect on small business. As I listened to several days of testimony, I could not believe some of the testimony which was delivered.

Basically, representatives of a small business intensive industry were telling us that some employers of a Federal agency had decided that federal regulation of their industry was in order. Among the alleged abuses of the process which came to light then and later are the following:

1. No witnesses were sworn at any of the FTC hearings.

2. No one was allowed to examine FTC staff on the funeral issue, in direct violation of the legislative history of the Magnuson-Moss Act.

3. FTC staff vigorously sought out "friendly" consumer groups to take advantage of public funds participation yet contacted no one else—for example, minority funeral directors.

4. Materials were incorporated into and referred to in the final report which were outside the rulemaking proceeding.

5. The FTC staff took well over a whole year to compile their report summarizing the hearings, yet asked interested persons to comment on the 600 page report in thirty days. They finally granted an additional thirty days to comment only after the original thirty days had almost expired.

6. On occasion, the hearing officer prevented cross-examination of certain witnesses.

What intrigued me further was the way the investigation was begun and ended. When the FTC began, they told us (under oath) that they had less than a dozen complaints on file. They then spent six months reading articles, magazines, books, etc. At the end of their long, expensive investigation they had a little over 1,000 complaints. The FTC staff said the following in their final report:

"Even without verification of these statistics, the only fair conclusion which can be drawn from the record evidence is that the number of consumer complaints filed against funeral directors is indeed modest and consumers are generally satisfied with the performance by funeral directors."

All of this work on a small business industry which is one of the few left in the nation which is truly local and intrastate by nature.

I knew what had transpired at the FTC. Process and proper administrative procedures had been sorely abused. It was my responsibility as a Member of the Congress to point these things out. And I was not alone. The antitrust section of the American Bar Association and the Administrative Conference of the United States both criticized FTC rulemaking.

Mr. BROYHILL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, just unless anybody believes that there is unanimous agreement here that we should continue this Agency, I wish to rise as one voice and say that I regret that we allow this Agency to continue in existence. I think my colleague from Minnesota and my colleague from New Jersey amply described how unwarranted and useless this Agency has become. It does not protect the consumer. It spends its time consumed in bureaucratic rhetoric and creating and chasing people it does not need to chase.

I just wonder what this Congress would be like if we ever actually had sunset legislation. This was an area where we could have sunsetted an agency, as my colleague from Minnesota, I think, amply described, chases all kinds of mysterious problems that do not exist, engages people in all kinds of unnecessary legal expense, and really does not protect the consumer. That is what it was supposed to do. So I hope when this agency comes up for renewal that this committee will really genuinely look to see if it is needed, if it is performing services to the consumer it is supposed to perform, or if it is just engaged in bureaucratic nonsense, as so many of my colleagues have described that it is engaged in.

Mr. SCHEUER. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Speaker, we do not have to wait until the end of the 3-year authorization period. As a result of the legislative veto provision, we now will have a chance to scrutinize each trade regulation rule that the Commission promulgates and, if we deem it appropriate, vote to overturn any rule.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I rise in support of the conference report. I agree with my colleagues, the gentleman from New York and the gentleman from Texas, that the conference report does not, in my judgment, meet all of the pressing priorities that we need, in terms of the Federal Trade Commission. But I think the gentleman from New York (Mr. SCHEUER), the chairman, and the gentleman from North Carolina (Mr. BROYHILL) have worked very, very hard and diligently to get this conference report put together. I think it deserves the support of the Members of the House.

Mr. SCHEUER. Mr. Speaker, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Speaker, I wish to thank my colleague, the gentleman from Washington (Mr. DICKS), for the extraordinary support that he gave us in the Appropriations Committee trying to work out this terribly complicated and emotionally charged issue of the continuing resolution. He did a marvelous job, and we are grateful.

Mr. DICKS. I appreciate the gentleman's remarks. I would also like to say to the gentleman from New York that a lot of my colleagues on the Appropriations Committee will be very glad that this authorization bill is finally enacted.

Mr. STAGGERS. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I rise in strong support of the conference committee report, and I would like to commend the chairman of the committee and, in particular, the chairman of the subcommittee and the ranking minority member of the committee, for their outstanding leadership in fighting for and bringing to us a conference committee report that meets the mandate of the House and its positions.

I felt at some times that the gentleman from North Carolina and the gentleman from New York were leading the children of Israel through the wilderness for 40 years; but today we have reached the promised land.

We have become a government—not of laws passed by elected officials and representatives—but a government of regulation. These regulations are established by people who are not elected and who do not suffer the inconvenience of going before the voters every 2 years to have their record looked into.

Mr. Speaker, that is why this legislation is truly landmark legislation. Today we have reached a milestone in a struggle to return to the American people control over their own Government and to let the Congress, elected by the people, have the say-so about those rules which become the laws which govern our lives. We can no longer leave it to the unelected bureaucrats.

The proposition is a very simple one: Who makes the laws in this country? Is it the unelected bureaucrats, or is it the elected Congress?

When the U.S. Constitution was written, when the Declaration of Independence was proclaimed, it was inherent in these documents that we were going to become a Government in which the people of this country made the final decisions about those laws under which they would be governed, those laws would have an impact on the quality of their lives, their businesses and their professions. Inherent in this whole concept was the idea that the people of this country, through their elected representatives who were accountable to them, would make the final decisions. This was fundamental. This was article I of the Constitution.

Now as a result of technological changes, the great growth and the complexity of our social and economic system, we have begun to move away from this fundamental concept. This was probably because of necessity in the beginning, when it became clear that the elected Congress could not by itself deal with every aspect of our society, of our economy, of our technology. We needed expertise in agencies, both in the executive branch and in the independent agencies.

This legislation, for the first time applying a legislative veto to all rules issued by a so-called independent agency, has set forth the proposition that it is the elected officials, accountable to the public, who have the responsibility and that we cannot abandon, indeed we must recapture for the American people, control over those rules that affect their lives.

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The legislative veto is not a revolutionary thing: It simply says that anytime a rule having the effect of law is issued, you have got a shot at deciding whether it ought to be the law or not. I think that is pretty simple. But the real importance is not that Congress is going to spend days and hours, weeks and months just passing on regulations. I think the real benefit will be that it will sensitize the people in Washington who are writing those rules and regulations. It will let them know that there is something that can be done about it.

I tell you that is not a question which addresses itself simply to the parochial interests of any group; it is a question that goes to the heart and soul of our entire system of government. If we cannot reclaim for the American people their rights to govern themselves, all the other things we think are so great and good will go by the board. We are on our way to a tyranny by the bureaucracy.

Bureaucracy becoming rampant is what has undermined the confidence of the American people; and I think that the dam of resistance against regulatory reform and against accountability through legislative vetoes has been breached today, and we are going to see more and more efforts by this Congress to recapture control over those rules and regulations which affect the lives and livelihoods of the American people.

The legislative veto provision is a constitutional exercise of our constitutional powers. Article I, section 1, of the Constitution of the United States says that the Congress of the United States has all the legislative power, and what we are doing by this legislation is recapturing for ourselves—and the American people—that power.

I will insert at this point in the RECORD various references to the constitutional underpinning of this section:

Cooper, Joseph and Ann, "The Legislative Veto and the Constitution," *George Washington Law Review*, Vol. 30, March 1962.

Miller, Arthur S. and George M. Knapp, "The Congressional Veto: Preserving the Constitutional Framework," *Indiana Law Journal*, Vol. 52, No. 2, Winter 1977.

Schwartz, Bernard, "The Legislative Veto and the Constitution—a Reexamination," *George Washington Law Review*, Vol. 46 No. 3, March 1978.

Stewart, Geoffrey S., "The Constitutionali-

ty of the Legislative Veto," *Harvard Journal on Legislation*, Vol. 13, No. 3, April 1976.

Watson, H. Lee, "Congress Steps Out: A Look at Congressional Control of the Executive," *California Law Review*, Vol. 63 No. 4, July 1975.

What we are doing here today means that in the future, when the FTC issues rules which have the force and effect of law, the final accountability for that responsibility of lawmaking will reside in the Congress, which is accountable to the American people.

Now, I would like to ask my colleagues from New York to engage in a brief colloquy with me.

As the gentleman from New York knows, under the congressional review procedure included in the conference report, Congress has 90 days to conduct a review of any regulations proposed by the FTC, and the review procedure is scheduled to sunset on September 30, 1982. I am concerned about a situation where the FTC submits a proposed rule on a day that is within 90 days of the sunset date. In such a situation, Congress might not be able to complete its review of the proposed rule before September 30, 1982. Was it the conferees' intention that Congress would be allowed to complete its review, and including possible veto, of any rules submitted in such a situation?

Mr. SCHEUER. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from New York.

Mr. SCHEUER. Absolutely, the intention of the conferees is that Congress have a full 90 days to review, and veto if necessary, all rules submitted during the period of this authorization. In cases such as the one you described, the review period would run beyond September 30, 1982, and the applicable judicial review would also be applicable.

Mr. LEVITAS. I thank the gentleman.

Mr. STAGGERS. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. MAGUIRE), a member of the committee.

Mr. MAGUIRE. Mr. Speaker, I rise in reluctant opposition to the conference report. I know that many of my colleagues who believe that the Commission can play a vital role in stimulating the competitive forces in our economy are looking forward to seeing that the FTC gets its authorization bill, hopefully not too much the worse for wear, and would like to move on from here. For my part, however, I must dissent.

There are compelling substantive and philosophical reasons for my doing so. Simply put, there are provisions in the conference report which will do great injury to the cause of consumer protection. But more so, the conference report represents a fraud which we are perpetuating on the American people. Under the guise of regulatory reform, we are hamstringing an effective agency which promotes competition and which fights inflation in the marketplace. Despite the fact that we are providing for a legislative veto, we are sidetracking certain Commission investigations—not on the basis of careful scrutiny, but on the basis of pressure from certain special interests. In addition to the damage which this does to the various sectors of the economy to which the FTC inquiries were addressed, we are doing a grave disservice to the worthy goal of true regulatory reform.

Let me discuss one substantive disagreement which I have with the conference report. The most serious item, is in the area of children's advertising. This provision suspends the children's advertising proceeding until the FTC votes to publish a proposed rule. It requires further that actions on advertising by the Commission be based solely on the "deceptive" standard because the term "unfairness" which has been used extensively by the Commission since its inclusion in the FTC Act in 1938 is being consigned to a regulatory Siberia for the length of the authorization bill.

In commenting on the elimination of the "unfairness" standard, Senator MAGNUSON, author of the Magnuson-Moss Act, said "Other than the protests of the advertisers and broadcasters opposed to the children's advertising rule, there has been no charge that the Commission's application of this concept has been injudicious or inappropriate."

Procedurally, this legislation now takes the unprecedented step of interrupting a Magnuson-Moss proceeding. What a message to be sending our constituents. They would love to be able to extricate themselves from the wrenching which they are taking from inflation with the same degree of ease which the advertisers and broadcasters have wriggled from the children's advertising proceeding. Because they know they cannot, the resentment they have shown to Government will only further be exacerbated with the help here of the Congress.

So by proceeding in this manner we have: First, overturned precedent by eliminating the "unfairness" test from the Commission's powers; second, prevented the Commission from compiling a decent hearing record from which we could judge whether a proposed rule should become effective on children's advertising; and third, layed the groundwork for more hostility which, to be attenuated, will surely require an even larger dragon than the FTC to be slain.

The damage done by the insurance amendment, the standards and certification rule, and the agricultural cooperative amendments may be as great. Suffice it to say that we are preserving market concentration, market dominance, and restraint of trade in these provisions—there is just no getting around it. And, we are doing so at a time when our economy would benefit from heightened competition and much more challenging economic activity in each of these sectors.

What is ironic about this episode is that this severely deficient bill will be sold as a regulatory reform measure. It is not, but that is how it will be packaged and what is worse, the FTC will not be able to criticize our use of this misleading advertising as unfair. My real fear is that the creative and active impetus for real progress in the area of regulatory reform may be dissipated.

What happened to the sunset bill? What happened to H.R. 65 which called for midterm review of programs? Why is there no active movement toward applying the EPA's bubble concept—which substitutes market incentives for economic punishment to inspire compliance with air pollution standards—in all spheres of regulatory practice. Where is the careful application of cost-benefit analysis in all of these so-called regulatory reforms where industry and consumers can equally benefit?

During the Chrysler debate a member who shared my views on that issue stood up and said that he was speaking for the free enterprise system. Today, I will stand up and speak for the benefits of creative activity which has reduced disease mortality by 7 percent as a result of restraint in sulphur dioxide emissions. Today, I will stand up for the 28,000 lives saved by automobile safety standards. I will stand up for the 44 percent reduction in crib deaths resulting from CPSC rules. I will stand up for 1.5 billion gallons in annual fuel savings. We can distinguish good regulation from bad, but that is not what we have done with this conference report.

Today we are indeed cutting the FTC "down to size." Today we could be beginning a movement toward restoring the Commission to the role of moribund national nanny which it played for far too long. By doing so, we will not restore the unemployed to their jobs, we are not restoring the lost productivity edge which our economy enjoyed for so many years. What we are doing, instead, is further insulating our markets from the higher degree of competitiveness which the Commission's scrutiny could and should provoke. This Congress can and should do better. The distinctions are there to be made. The conference report on H.R. 2313 makes very few on behalf of the public.

I understand that the gentleman from New York, if he would permit me to yield to him at this point, does make some commitments with respect to hearings on the fairness question in the future. Is that correct?

Mr. SCHEUER. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from New York.

Mr. SCHEUER. The gentleman is absolutely correct. It was agreed by the Senate conferees through Senator FORD that they would have hearings on the question of unfairness starting early next year. My subcommittee also will hold comprehensive hearings on the meaning and implication of the unfairness doctrine in the near future.

The SPEAKER pro tempore. The time of the gentleman from New Jersey (Mr. MAGUIRE) has expired.

Mr. STAGGERS. Mr. Speaker, I yield 30 minutes to the gentleman from New York (Mr. SCHEUER).

Mr. MICA. Mr. Speaker, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from Florida.

Mr. MICA. As a point of clarification, it is my understanding that any State with with regard to funeral regulations, any State that has in place regulatory agencies and rules that are stronger or equal to this regulation, this bill will be exempted from this legislation.

Mr. SCHEUER. Yes. The conference substitute requires that the Commission set up an exemption mechanism which will allow the FTC rule to be displaced

if the State can demonstrate that its rule, regulation or statute provides an overall level of protection as great or greater than the FTC's rule.

Mr. MICA. So that I understand a State like Florida would be exempted.

I thank the gentleman.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

In the conference report we have included a provision for expedited judicial review of the legislative veto provision. Although the Congress cannot alter the jurisdiction of the courts as provided in article III of the Constitution, the courts have held on a number of occasions that the Congress may remove all prudential limitations on reviewability. In this context, would the gentleman agree that the purpose of this provision is to remove such barriers to review and to direct the courts to decide this constitutional question at the earliest occasion permitted under the Constitution and laws of the United States?

Mr. SCHEUER. Absolutely. There is no question about it.

● Mr. PREYER. Mr. Speaker, the conference report on the Federal Trade Commission amendments represents a balanced and responsible compromise between the House bill and the Senate amendments. There were a number of major issues not addressed in the Senate amendments that the House had addressed in the hearings and in the bill. There were also major issues which the Senate had debated extensively in committee and on the Senate floor. Together the members of the committee of conference labored to resolve these differences in a responsible way, recognizing the substantial effort that had been made on both sides.

Among the Senate amendments was an amendment to section 18 of the Federal Trade Commission Act, the so-called Magnuson-Moss Act, which would have established "false or deceptive" as the standard for FTC rules governing commercial advertising acts or practices in or affecting commerce. Under existing law, those commercial advertising acts or practices which the Commission finds to be "unfair or deceptive" may be prohibited by rulemaking.

Mr. Speaker, it is well settled that commercial speech, including the content of commercial advertising, is protected speech under the first amendment. In the children's television advertising proceeding, the FTC's staff has asserted that the Commission has almost unlimited power to prohibit "unfair" commercial speech, with the Commission itself sitting in judgment to determine which commercial speech violates its concept of "fairness." As noted in the Senate committee report (S. Rept. 96-500):

> (b)y assuming the authority to decide that particular commercial speech (although truthful and nondeceptive) is somehow "unfair" and should be banned on this basis, the Commission has taken a step into an area permeated by First Amendment concerns.

The conference report incorporates the thrust of the Senate amendment with respect to the regulation of commercial speech. Under the conference report, the FTC will be prohibited from promulgating a rule in the children's advertising proceeding on the basis that such advertising constitutes an "unfair" act or practice. Thus, the only children's advertising rule in this proceeding, or in a substantially similar proceeding, that could be promulgated would be on the basis that such advertising is "deceptive."

Mr. Speaker, the conference report also prohibits the FTC from initiating any other rulemaking proceeding which would prohibit or otherwise regulate commercial advertising on the basis that such advertising is "unfair." This latter constraint is for the life of the authorization—through fiscal year 1982. Obviously, this latter limitation on Commission authority was limited to the 3-year life of this authorization because the House of Representatives must hold hearings, and develop its own legislative recommendations, before a final decision is made on the use of "unfairness" as a standard in regulating or prohibiting commercial speech. In the meantime, the legitimate first amendment concerns of the Senate have been protected and the FTC, for the next 3 years, will have no further opportunity to encroach upon an area explicitly protected by our Constitution.

Mr. Speaker, the FTC for the life of this authorization will be limited to the traditional role of government in protecting consumers from nontruthful and deceptive commercial speech. The courts have had ample occasion, over the years, to define the limits and establish the parameters. The committee of conference intends no departure from the traditional concept of "deception" used by the FTC, and endorsed by the courts, for many decades.

Mr. Speaker, it should be stressed that the committee of conference has taken no position with respect to the Commission's powers to bring cases against specific advertisements by individual companies under its "section 5" authority. The rulemaking context, applicable to an entire industry, has been addressed in the manner outlined earlier in these remarks because of the far-reaching nature of such proceedings and the potential for abuse in such proceedings.

In exercising its rulemaking authority, the Commission will be governed by legislative history set forth in the Senate report. Only that commercial speech traditionally regulated or banned as "deceptive" will be subject to FTC regulation and control under its "Magnuson-Moss" rulemaking powers. The courts have established that truthful and nondeceptive speech is protected in a long line of cases. The conferees expect the FTC to follow the precedents.

Mr. Speaker, the former Solicitor General of the United States, the Honorable Robert H. Bork, has submitted a paper to the Senate Committee in response to that committee's request for views on the use of the "unfairness" standard in regulating commercial speech. Mr. Bork is now Alexander M. Bickel, professor of public law at the Yale Law School.

Mr. Speaker, Professor Bork notes that

> (a)n unfairness doctrine construed so broadly as to confer the power to regulate truthful, nondeceptive commerial speech is, of course, a power to regulate the content of virtually all commercial speech. Given the Supreme Court's decisions, that asserted power seems certain to face very serious constitutional difficulty.

The committee of conference has taken the steps necessary to protect commercial speech from FTC rules that overreach the limits of protected speech. But our action under section 18 is for the limited term of this authorization, and neither the House nor the Senate has addressed the unique problems of regulating commercial speech on a case-by-case basis. The Senate committee has made a commitment to hold timely hearings. The House committee should do the same. In the next Congress, our respective committees have a profound duty, in my judgment, to resolve this problem and establish guidelines which will keep this Commission, and future Commissions, from encroaching upon protected commercial speech.

Thank you, Mr. Speaker.

Mr. Speaker, I would like to make a few remarks for the RECORD in regard to two aspects of the conference report on the Federal Trade Commission amendments bill (H.R. 2313). The first is in regard to the scope of disclosure restrictions and the second refers to sharing information with States, Congress, and other Federal agencies.

SCOPE OF DISCLOSURE RESTRICTIONS

Section 14 of the bill provides in section 21(b)(3)(B) that the custodian may provide copies of documents to authorized officers or employees of the Commission. This does not preclude use of these documents by consultants retained by the Commission, including those retained on a temporary or part-time basis as contractors, provided that they will be using the documents for official business and have signed a written agreement not to disclose information without the Commission's consent.

Section 21(c) permits companies to designate certain information submitted to the Commission "confidential," in which case the Commission may not disclose the information without giving notice. This provision is not intended to apply to everything filed with the Commission. Rather, Congress expects that submitters will limit their designations to information which they believe may not be made public under section 6(f) of the act. Moreover, it is not contemplated that this subsection would apply to correspondence, pleadings, motions, and other documents designed to secure relief or to affect official Commission proceedings, except as to portions which contain trade secrets or confidential and commercial information. Instead, it is intended to protect the proprietary interests of submitters. In addition, if portions of documents are marked as containing proprietary information, only those portions would be subject to the notice requirement. Release of these documents to State and Federal law enforcement agencies without need to give notice is permitted because these disclosures are governed by section 6(f).

SHARING INFORMATION WITH STATES, CONGRESS, AND OTHER FEDERAL AGENCIES

In section 3(a) and section 14 of the bill, amending section 6(f) and adding a new section 21 to the FTC Act, we intended to confirm the Commission's policy of providing documents and information on a nonpublic basis to Federal law enforcement agencies and to State attorneys general for State law enforcement purposes. This sharing of information is in the best spirit of Federal-State cooperation. It enhances the States' ability to remedy, in a manner chosen by the State, economic activities that have adversely affected their citizens. It saves taxpayers' money by minimizing duplication of efforts and by reducing the time and effort necessary to conduct State investigations.

The purpose of these provisions is to make it crystal clear that the Commission has this authority and that it should be able to exercise it without undue delay and restraint. It is intended to prevent situations like those occurring in two recent cases. In one, Interco, Inc. against FTC, it took some 17 months of litigation before the Commission was free to disclose documents to more than 20 State attorneys general. In another, Martin Marietta Corp. against FTC, the Commission spent 4 months discussing the proposed disclosure with company personnel, then was enjoined from disclosing the document for another 8 months before the Commission could disclose it. By clarifying the law, we hope to put an end to litigation of this type which needlessly delays and hampers the ability of our State attorneys general to protect the citizens of their States.

As to information that is not subject to a custodianship arrangement under section 21(b), the Commission is authorized to make public information that is neither a trade secret nor confidential commercial and financial information (section 6(f)).

The Commission may disclose the results of investigations or studies provided that the section 21(c) information is not revealed without prior notice in an identifiable manner individually, or does not reveal a trade secret or confidential commercial and financial information of any person (section 21(d)(1)(B)). The Commission may disclose trade secrets and confidential commercial and financial information in the following circumstances; first, it may disclose such information to Congress (section 21(d)(1)(A); second, it may disclose such information to Federal and State law enforcement agencies, provided that those agencies promise to use it for law enforcement purposes only, and to keep it confidential (section 6(f)); third, relevant and material information may be disclosed in Commission administrative proceedings or in judicial proceedings, but it may be made subject to appropriate protective orders by the court (in a judicial proceeding), by the administrative law judge (in the case of adjudicative proceedings), or by the Presiding Officer (in the case of trade regulation rulemaking proceedings), as provided for in the Commission's Rules of Practice, 16 CFR Section 1.18(b), 3.45. Sections 21(d)(1)(C), 21(d)(2). See Senate Report No. 96-500 at 27-28; fourth, disclosure may be made pursuant to certain statutes that authorize disclosures to other Federal agencies (section 21(e)); and finally, disclosures may be made of disaggregated information obtained under the Federal Reports Act to Federal agencies, but the agencies may use the information only for economic, statistical, or policymaking purposes, and may not disclose that information in an individually identifiable form.

As to the last provision, it is the intent of the conferees to codify current Commission practice which is to allow the Department of Commerce's Bureau of Economic Analysis (BEA) access to individual quarterly financial reports collected by the FTC. This information is used by BEA for purposes of preparing the estimates of the national income and product accounts. Other Federal agencies do not currently have access to disaggregated data gathered under the quarterly financial reports program and we expect no change in this practice. However, if any need arises for a change in this practice, we expect the Commission to notify the Commerce Committees.

As to information that the Commission obtained before enactment of this bill, the respective prohibitions and authorities contained in sections 6(f), 21(d), and 21(e), apply regardless of whether the information was obtained before or after the effective date of the act. Sections 21(a), 21(b), and 21(c) apply to material obtained by the Commission after the effective date of the Act.

Finally, sections 6(f) and 21(b) require agencies that receive the information from the Commission to maintain the information in confidence. In addition to the specific conditions in section 21(b)(6), as stated above, these provisions are not intended to preclude use of documents as evidence in a law enforcement proceeding. Also, if both the Commission and the provider consent, the recipient agency may make information covered by these provisions public.●

● Mr. PASHAYAN. Mr. Speaker, I rise in support of this legislation. We have taken an important step forward in protecting the legitimate interests of farmer cooperatives and the thousands of growers throughout the United States who market their crops through cooperatives.

Section 20 of the bill, relating to cooperatives, exhibits a clear congressional intent that the Federal Trade Commission must act in a restrained and circumspect manner with regard to enforcement activities against agricultural cooperatives by stating that the Commission will not have authority to proceed against cooperatives for conduct which is protected by the Capper-Volstead Act. It is the limited antitrust exemption in the Capper-Volstead Act that has allowed small farmers through their agricultural cooperatives to thrive and prosper. This means that small and large growers alike can take advantage of the efficiencies of scale by affiliating with a cooperative.

The conference report, by confirming the spirit and intent of Capper-Volstead, lets cooperatives and their affiliated producers know that Congress continues to encourage the cooperative movement. I fully expect that the Federal Trade Commission will not proceed against agricultural cooperatives for conduct or acts which fall within the Capper-Volstead exemption.●

● Mr. GOLDWATER. Mr. Speaker, I rise in reluctant support of the conference report for the Federal Trade Commission authorization. I cannot kid myself that we have cured the Ralph Nader syndrome that has infected that agency in the past, but we have at least cut out a few of the more obnoxious cancers through the prohibitions in the authorization.

Without these prohibitions, the agency would be able to go its merry way, ignoring commonsense, the U.S. Congress, consumers (and by consumers, I mean the folks who buy products, not the groups who purport to represent them), legal precedent and the 10th amendment.

I was disappointed that the conferees did not adopt the House passed language or a more reasonable compromise to that language clarifying that agricultural cooperatives were meant to come under the jurisdiction of the Capper-Volstead Act. I am not going to make any comments about why the House conferees caved in on this particular issue, but I think it is relevant to note that I suspect that concerted opposition to it came from the White House, not the Senate as a body. Be that as it may, I am at least pleased that there is a restatement of the original intent and purpose of Capper-Volstead, and while it is not a perfect solution, it is better than nothing. Again, I recognize that without even this watered-down version of the Andrews amendment, the FTC would proceed with no hindrance whatsoever. The restatement of congressional intent might at least have a salutory effect on legal proceedings, if not the political types at the FTC itself.

I believe more and more people are coming to recognize that overregulation and absurd regulation of private enterprise is counterproductive to consumers and taxpayers alike and represents a major part of the Federal stranglehold on the productive sector of our economy. The FTC is the great grand-daddy of all the regulatory agencies, and the time to reign them in is long overdue. They have bolted too long, and I hope this bill reminds them that they are public servants, not dictators and that they serve at the will of Congress, enforcing only laws passed by Congress, not writing their own. It is about time someone reminded them that the legislative branch of Government sits at the east-end of Pennsylvania Avenue.●

● Mr. CAMPBELL. Mr. Speaker, I wish to express my concern over what appears to be the Federal Trade Commission's violation of the proscriptions against initiating "any new activities" contained in a series of congressional resolutions providing for interim funding for the FTC. This failure to abide by the limitations placed on FTC activities by congressional legislation has also resulted in an apparent violation of the Antideficiency

Act, which prohibits "executive officers * * * from making * * * obligations for expenditures or liabilities beyond those contemplated and authorized for the period * * * under which they are made."

I am advised that on January 10, 1980, the FTC approved a resolution authorizing the use of compulsory process in an investigation directed at examining the advertising of Pepto-Bismol, an over-the-counter drug product. In mid-March 1980, the Morton-Norwich Products, Inc., the manufacturer of Pepto-Bismol, received a subpoena duces tecum seeking various information relating to Pepto-Bismol. I believe there may be serious questions about the legality of these FTC investigations.

The Commission's authority to conduct its statutory activities during its 1980 fiscal year to date has rested on a series of Congressional resolutions that contain explicit limitations on the Commission's authority to expend public funds:

> That none of the funds made available by the joint resolution for the Federal Trade Commission may be used . . . to initiate any new activities.

It seems to me that the Commission's issuance of the resolution and subpena to Morton-Norwich involves an expenditure of public funds for a "new activity," which is expressly prohibited.

In addition to my concerns relating to the legal validity of this investigation, I do not understand why the Commission is choosing to duplicate, in large part, the activities of the Food and Drug Administration. The FDA has been conducting a review of the efficiency and safety of all over-the-counter drugs, including Pepto-Bismol. As the Conference Report to accompany H.R. 2313, the Federal Trade Commission Amendments, states:

> The conferees hope the Commission will closely follow the activities of other interested Federal agencies and, in the spirit of Executive Order 12044, will avoid inconsistent or duplicative activity.

I believe the FTC review of Pepto-Bismol claims already subject to FDA scrutiny is duplicative, could lead to inconsistent results, and would result in a wasteful expenditure of tax dollars.

Just as Congress must work to define more clearly the FTC's jurisdiction, the FTC must remain mindful of its responsibility to exercise restraint in its regulation of interstate commerce. Coordination with other Federal regulatory agencies to avoid duplicative efforts is a serious and important responsibility for the FTC.●

● Mr. WAXMAN. Mr. Speaker, I support this conference report and urge my colleagues to adopt it. Today's vote culminates a terribly difficult struggle over the very survival of the Federal Trade Commission. In my opinion, the FTC has done more to protect the consumers of America than any other Government agency. My belief is hardly limited to its efforts on behalf of individual consumers across the country. It has also acted to protect business as well—to protect them from predatory and anticompetitive practices by other businesses and corporations.

The FTC's task has been to insure that the market works, and works fairly. I fear that the Federal Trade Commission has come under attack not because it has abused its mandate—which we conferred on the agency in 1974—but because, in some instances, it has done its job all too well.

I am pleased that although certain agency actions will be curtailed under this conference recommendation, the integrity of the FTC has been preserved.

Mr. Speaker, I was especially concerned, as chairman of the Subcommittee on Health and the Environment, over the ability of the FTC to assist our committee, and the Congress, in our continuing review of the insurance industry.

Health insurance is critically important to millions of Americans. The FTC has played an indispensable role in studying certain insurance practices affecting the availability and scope of health insurance policies.

The conference report specifically provides that the FTC's current participation with HHS in a study of medigap insurance can continue. Of crucial importance to our committee is the fact that this legislation will permit the FTC to continue to use its authority to obtain the information and data necessary to conduct, and successfully conclude, this study.

Other committees, under the terms of this legislation, will request the Commerce Committee to authorize other investigations of other aspects of the insurance industry. Again, the FTC will be able to continue to use its existing authority to obtain information necessary to pursue and complete these studies. This will be helpful to all concerned.●

● Mr. ASHBROOK. Mr. Speaker, this Congress is now coming to the end of the protracted battle to reform the Federal Trade Commission. Once again the months, and in this case years, of discussion and voting has resulted in a mere shadow of the kind of substantive reform that has been called for regarding this agency. This conference report, while cutting into some of the FTC's powers and providing a beachhead for Congressional review, still leaves many of the processes and powers that have led to abuse within the FTC more or less intact. For that reason I am opposing this report.

At the beginning of this month the FTC had to close its doors for a brief span of time because funding had run out and Congress did not act in time to prevent the shortfall. Commentators around the country condemned the Congress for this supposed irresponsibility and a number of my colleagues chastised this body for its lack of action. I wonder why it is that the death of any Federal entity always invokes such a response. Why is it that few in Washington wish to see any part of this overgrown bureaucracy cut back for even a handful of hours? The answer to this question is the same as why the FTC grew so far beyond its mandate and did so much harm to American business. The mentality of Washington is one of service to the established bureaucratic order, not to the citizens in the Nation who are supposedly served by this city. The sacred rule of this mentality is that no Federal entity can die, only survival or growth is allowed.

This is the second conference report today that this Congress has had to address under the pressure of time. In the first instance we were told that further delay or revision would result in people starving. In this bill we have been told that bureaucrats would be out of work and regulations would not be printed unless action is taken. Brinkmanship once again has had its day in the House. Just as appeasement to terrorists leads to more terrorism, so will capitulation to brinkmanship encourage other agencies and programs to bluff their way out of oversight and reform. Once again the sacred rule of survival and growth is chiseled into congressional intent.

Why must the FTC survive? In its present form it has become the rogue agency among the regulators of Washington. The orientation of the officials within the FTC has been proven to be contemptuous of the marketplace, and unwavering in the belief that regulation can supplant individual consumer choice in charting the course of consumption in America. Regardless of the watered down provisions this House passes today, the mentality will still exist within the FTC and methods will be found to move around these new provisions as they have moved around the Congress mandates in the past. As long as the FTC and other agencies know that the Congress will not call their bluff there will be abuses. We had our chance on May 1 to finally call a halt to the charade of oversight and the travesty of reform by shutting down the FTC and forcing substantive reforms as the price of readmission to the regulatory network. A majority of the House decided to deny themselves that opportunity. That was a disservice to the Nation that may come back to haunt this Chamber.

On May 1 one of my colleagues defended the work of the FTC as necessary for the smooth functioning of the marketplace and justice for the consumer. In the long litany of examples he provided few, if any, cases which proved that FTC action really benefited consumers or the market as a whole. At the same time he did not mention the tremendous costs the FTC has levied on the Nation in the form of reporting requirements, other types of paperwork, litigation costs, and the added overhead from delayed market initiatives and failed businesses that were ruined by the FTC actions. The FTC has a sorry record on which to base its case for survival. It is indeed unfortunate that the Congress did not fully address that record when it made the decision to abandon its oversight responsibility. For my colleagues who may have some second thoughts about this conference report and the cheap price the FTC is paying for an assurance of survival, I would like to relate some examples of the FTC's actions in recent years:

1. FOOD ADVERTISING TRR

It has taken the Commission 6 years and over 50,000 pages of transcript to arrive at the conclusion that they are still "not sure" whether a food advertising regulation is necessary. The Consumer Protection Bureau Director, Al-

bert H. Kramer, now claims that many areas now covered by the rule are "too insignificant" or that others are "too broad." And a group of FTC staff economists have recommended five major changes in the proposal, including deletion of a provision that would require advertising disclosure of the fat, fatty acid, and cholesterol content of foods.

Yet despite the reservations of many high-placed individuals in the FTC, the Commission heard more oral presentations on the rule, May 7.

2. RECOMMENDATIONS FOR A MODEL STATE LAW ON INSURANCE POLICY DISCLOSURES

The McCarran-Ferguson Act, 15 U.S.C. 1011–1015, exempts the "business of insurance," where regulated by the States, from the Federal Trade Commission Act. Congress goal, to foster State regulation based on the accumulated expertise of State insurance departments and their responsiveness to local needs, has been eminently successful. All 50 States now regulate insurance rates, policy terms and coverages, advertising and sales practices, and claims settlement procedures, as well as prohibiting unfair, anticompetitive or discriminatory practices.

In May 1976, the National Association of Insurance Commissioners (NAIC) proposed a model law relating to life insurance cost disclosures. Since that time, at least 26 States have adopted the law, while others are likely to adopt it in the near future. Notwithstanding these efforts of State legislatures and commissioners, the FTC dropped its rulemaking proposal only after substantial congressional opposition, expressed in House and Senate committee reports accompanying 1979 FTC appropriations requests. Both Houses also directed the Commission to avoid any effort to impede or thwart enactment of the NAIC model bill. Despite this stricture, FTC Chairman Michael Pertschuck has admitted in House testimony that Commission staff have continued to visit States to discourage passage of the States' proposal and to promote the FTC's own cost disclosure method.

3. FUNERAL HOME TRADE REGULATION RULE

The final staff report upon funeral industry practices runs to 526 pages, plus appendices and memoranda. This "cogent" report is garnished with a mere 1,980 footnotes. On page 2 of that report, you will find one sentence containing a friendly word for the funeral industry: after acknowledging that some readers might view the report as an indictment of the funeral industry, the staff notes that such a characterization is "both unintended and inaccurate, for we (FTC) recognize the necessary and generally helpful service that many funeral directors render."

One may search in vain for another kind reference to the industry in the 526-page document. If the situation were as appalling as the Commission indicates, one would expect to find a record of thousands upon thousands of complaints and lawsuits against the "unscrupulous" funeral homes. Yet, the record does not support this. In fact, even the Commission admits that the number of complaints against the funeral industry are minimal:

The only fair conclusion which can be drawn from the record evidence is that the number of consumer complaints is indeed modest and consumers are generally satisfied.

4. CHILDREN'S ADVERTISING TRR

The conference report does try to force the FTC to show some of its hand on its rulemaking before the agency moves any further in its regulations. However, the conference language may still allow abuses to take place. Among the possible abuses is the fact that any ban on advertising to children or other guidelines will tamper with the first amendment rights of advertisers and television networks. Many of us may not like commercials we see on TV, but that is no reason to raise grave constitutional questions.

After spending months doing research, and spending tax funds on analysis as well as the money of the private sector on calling legions of witnesses to Washington, the FTC is still unable to reasonably conclude that television advertising causes children to eat foods that, in turn, cause tooth decay. Overburdened taxpayers will soon grow tired of the continued financing of this "fishing trip" into network policies.

5. EYEGLASS TRADE REGULATION RULE

As finally promulgated, the FTC's eyeglass rule makes it unlawful for a state legislature to establish State policy on ophthalmic advertising unless that policy is precisely the same as that adopted by the five FTC Commissioners in Washington. Never mind that the State legislatures better understand local conditions and values. Never mind that the State legislature and the FTC may have very different conceptions of what is "unfair." The fact is that under the Eyeglass TRR, it is the FTC—and not the elected representatives of the people in each State—that determines what constitutes lawful ophthalmic advertising. Moreover, although this rule deals only with laws regulating ophthalmic goods and services, it clearly reflects the Commission's view that it has the power to strike down any State law which it regards as "unfair."

These are just the tip of the iceberg of how the FTC has strayed from both congressional intent and rationality in general. I hope my colleagues will reflect on these examples and realize that this conference report does not go far enough in preventing future abuses. I urge defeat of the conference report.●

Mr. STAGGERS. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 272, nays 127, not voting 33, as follows:

[Roll No. 245]

YEAS—272

Addabbo	Flippo	Nedzi
Akaka	Florio	Nelson
Albosta	Foley	Nichols
Alexander	Forsythe	Nolan
Ambro	Fountain	Nowak
Anderson, Calif.	Fowler	O'Brien
	Frenzel	Oakar
Anderson, Ill.	Frost	Oberstar
Andrews, N.C.	Fuqua	Obey
Andrews, N. Dak.	Garcia	Ottinger
	Gaydos	Panetta
Annunzio	Gibbons	Pashayan
Ashley	Gilman	Patten
Aspin	Glickman	Patterson
Atkinson	Goldwater	Pease
Bailey	Gonzalez	Pepper
Baldus	Gore	Perkins
Barnes	Gradison	Peyser
Bedell	Gray	Pickle
Bellenson	Green	Preyer
Benjamin	Guarini	Price
Bennett	Gudger	Pritchard
Bereuter	Hagedorn	Pursell
Bevill	Hall, Ohio	Rahall
Biaggi	Hall, Tex.	Rangel
Bingham	Hamilton	Ratchford
Blanchard	Hance	Regula
Boggs	Hanley	Reuss
Boland	Harkin	Rhodes
Bolling	Harris	Richmond
Boner	Harsha	Rinaldo
Bonior	Hawkins	Ritter
Bonker	Heckler	Rodino
Brademas	Hefner	Roe
Breaux	Heftel	Rosenthal
Brinkley	Hightower	Roth
Brooks	Hillis	Roybal
Broomfield	Hollenbeck	Sabo
Broyhill	Holtzman	Scheuer
Buchanan	Hopkins	Schroeder
Burlison	Horton	Seiberling
Burton, John	Howard	Shannon
Burton, Phillip	Hubbard	Sharp
Butler	Huckaby	Simon
Byron	Hughes	Smith, Iowa
Carr	Hutto	Smith, Nebr.
Carter	Johnson, Calif.	Snowe
Chisholm	Jones, N.C.	Snyder
Clay	Jones, Okla.	Solarz
Cleveland	Jones, Tenn.	St Germain
Clinger	Kastenmeier	Stack
Coelho	Kemp	Staggers
Coleman	Kildee	Stanton
Collins, Ill.	Kogovsek	Stark
Conable	Kostmayer	Steed
Conte	LaFalce	Stockman
Corcoran	Leach, Iowa	Stokes
Corman	Levitas	Stratton
Cotter	Lloyd	Studds
Coughlin	Long, La.	Swift
Courter	Long, Md.	Synar
D'Amours	Lowry	Thomas
Danielson	Luken	Thompson
Daschle	Lundine	Traxler
Deckard	McCloskey	Udall
Dellums	McCormack	Vanik
Derrick	McDade	Vento
Derwinski	McHugh	Walgren
Devine	Madigan	Wampler
Dicks	Markey	Waxman
Dingell	Marks	Weaver
Dixon	Marriott	Weiss
Dodd	Matsui	White
Donnelly	Mattox	Whitley
Dougherty	Mavroules	Whittaker
Downey	Mazzoli	Whitten
Drinan	Mica	Williams, Mont.
Early	Mikulski	Williams, Ohio
Eckhardt	Miller, Calif.	Wilson, Tex.
Edgar	Mineta	Wirth
Edwards, Ala.	Minish	Wolff
Edwards, Calif.	Mitchell, Md.	Wolpe
Erdahl	Moakley	Wright
Erlenborn	Moffett	Wyatt
Ertel	Mollohan	Wydler
Evans, Del.	Moore	Yates
Fazio	Moorhead, Pa.	Young, Fla.
Fenwick	Mottl	Young, Mo.
Ferraro	Murphy, Ill.	Zablocki
Fish	Musto	Zeferetti
Fisher	Natcher	
Fithian	Neal	

NAYS—127

Abdnor	Hammer-schmidt	Murphy, Pa.
Anthony	Hinson	Murtha
Applegate	Holland	Myers, Ind.
Archer	Holt	Myers, Pa.
Ashbrook	Hyde	Paul
Badham	Ichord	Petri
Bafalis	Ireland	Porter
Bauman	Jacobs	Quayle
Bethune	Jeffords	Quillen
Bouquard	Jeffries	Railsback
Bowen	Jenkins	Roberts
Brodhead	Johnson, Colo.	Robinson
Brown, Ohio	Kazen	Rostenkowski
Burgener	Kelly	Rousselot
Campbell	Kindness	Royer
Carney	Kramer	Rudd
Chappell	Lagomarsino	Runnels
Cheney	Latta	Russo
Clausen	Leach, La.	Santini
Collins, Tex.	Leath, Tex.	Satterfield
Crane, Daniel	Lederer	Sawyer
Crane, Philip	Lee	Schulze
Daniel, Dan	Lent	Sensenbrenner
Daniel, R. W.	Lewis	Shelby
Dannemeyer	Livingston	Shumway
Davis, Mich.	Loeffler	Shuster
Davis, S.C.	Lott	Skelton
de la Garza	Lujan	Solomon
Dickinson	Lungren	Spence
Dornan	McClory	Stangeland
Duncan, Tenn.	McDonald	Stenholm
Edwards, Okla.	McKay	Stump
Emery	Maguire	Tauke
English	Marlenee	Taylor
Evans, Ga.	Martin	Trible
Evans, Ind.	Michel	Volkmer
Fary	Miller, Ohio	Walker
Findley	Mitchell, N.Y.	Watkins
Ginn	Montgomery	Whitehurst
Goodling	Moorhead, Calif.	Wilson, Bob
Gramm	Murphy, Ill.	Winn
Grisham	Nedzi	Yatron
Guyer	Nolan	Young, Alaska

NOT VOTING—33

AuCoin	Ford, Tenn.	Murphy, N.Y.
Barnard	Gephardt	Rose
Beard, R.I.	Giaimo	Sebelius
Beard, Tenn.	Gingrich	Spellman
Brown, Calif.	Grassley	Stewart
Cavanaugh	Hansen	Symms
Conyers	Lehman	Ullman
Diggs	Leland	Van Deerlin
Duncan, Oreg.	McEwen	Vander Jagt
Fascell	McKinney	Wilson, C. H.
Ford, Mich.	Mathis	Wylie

□ 1750

The Clerk announced the following pairs:

On this vote:

Mrs. Spellman for, with Mr. Beard of Tennessee against.

Mr. Lehman for, with Mr. Grassley against.

Mr. Murphy of New York for, with Mr. Hansen against.

Mr. McKinney for, with Mr. Sebelius against.

Mr. Duncan of Oregon for, with Mr. Symms against.

Until further notice:

Mr. Giaimo with Mr. Brown of California.

Mr. Conyers with Mr. Vander Jagt.

Mr. Charles H. Wilson of California with Mr. Wylie.

Mr. Van Deerlin with Mr. McEwen.

Mr. AuCoin with Mr. Beard of Rhode Island.

Mr. Barnard with Mr. Diggs.

Mr. Mathis with Mr. Stewart.

Mr. Ullman with Mr. Ford of Michigan.

Mr. Fascell with Mr. Cavanaugh.

Mr. Conyers with Mr. Gephardt.

Mr. Rose with Mr. Leland.

Messrs. ROBERTS, YATRON, HYDE, and ROSTENKOWSKI changed their votes from "yea" to "nay."

Mr. BIAGGI changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DIRECTING CLERK OF THE HOUSE TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 2313, FEDERAL TRADE COMMISSION AMENDMENTS

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 340) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 2313.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 340

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H.R. 2313) to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such Act, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In section 6(f) of the Federal Trade Commission Act, as proposed to be amended by section 3(a)(2) of the bill, insert a comma after *"Provided"*.

(2) In the last sentence of the undesignated paragraph at the end of section 6 of the Federal Trade Commission Act, as proposed to be added by section 4 of the bill, strike out "Improvement" and insert in lieu thereof "Improvements".

(3) In the first sentence of section 21(b)(3)(B) of the Federal Trade Commission Act, as proposed to be added by section 14 of the bill, strike out "officer" the first place it appears therein and insert in lieu thereof "official".

(4) In the first sentence of section 21(b)(6) of the Federal Trade Commission Act, as proposed to be added by section 14 of the bill, insert "any" before "such agency".

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. BROYHILL. Mr. Speaker, reserving the right to object, I take this time to ask the gentleman from West Virginia the purpose of these corrections in the resolution that he is offering at this time.

Mr. STAGGERS. If the gentleman will yield, they are just corrections that needed to be made in writing up the report where mistakes have been made and corrections need to be made for commas and periods.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. In glancing at these changes that are being made, it looks like more than just technical corrections, for instance, striking out "officer." Why it is necessary to do this?

Mr. STAGGERS. If the gentleman will yield, putting in the word "officer" was a mistake. It was "official," and putting in the word "officer" was a mistake.

Mr. ROUSSELOT. What difference does that make?

Mr. BROYHILL. "Official" was intended in the first place. It was not intended to be "officer."

Mr. ROUSSELOT. What is the impact of putting "any" before "such agency"? Why do we have to do that?

Mr. BROYHILL. It just makes better English to say "any such agency."

Mr. ROUSSELOT. Mr. Speaker, can the chairman assure us that this does not make any substantive change in the bill?

Mr. STAGGERS. I can assure the gentleman of that.

Mr. BROYHILL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia (Mr. STAGGERS)?

There was no objection.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1800

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the Concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

AUTHORIZING THE VIETNAM VETERANS MEMORIAL FUND, INC., TO ESTABLISH A MEMORIAL

Mr. NEDZI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate joint resolution (S.J. Res. 119) to authorize the Vietnam Veterans Memorial Fund, Inc., to establish a memorial.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I make my reservation of objection solely for the purpose of inquiring of the distinguished chairman of the Libraries and Memorials Subcommittee of the Committee on House Administration the reason for the urgency of the consideration of this joint resolution.

I yield to the gentleman from Michigan.

Mr. NEDZI. Mr. Speaker, the bill Senate Joint Resolution 119 as amended would establish a Vietnam Veterans Memorial in Washington, D.C., funding

for which would be raised by the Vietnam Veterans Memorial Fund, Inc., a nonprofit corporation organized and existing under the laws of the District of Columbia. The bill authorizes the selection of a suitable site of approximately 2 acres in size located within the District of Columbia.

The design and plans for the memorial, which is envisioned as a quiet garden setting in which the names of the over 57,000 who died in Vietnam will be set forth, along with a low-level sculpture presentation, are subject to the approval of the Secretary of the Interior, Commission of Fine Arts, and the National Capital Planning Commission. As is customary, the Secretary of the Interior will be responsible for the maintenance and care of the memorial.

Concern was expressed in committee about seasonally or climatically incompatible landscape planning which might result in expensive maintenance and/or an unkept appearance. As the legislation provides that the Secretary of the Interior be party to the design approval as well as be responsible for the maintenance and care of the memorial, there is incentive to select a design which is easy to maintain. The committee wishes to go on record as emphasizing that the factor of landscaping maintenance be fully considered by the agencies participating in the design approval process.

Mr. Speaker, a House version of the legislation has 196 cosponsors. The Senate resolution, which passed on April 30, has all 100 Members as sponsors.

On Monday, May 26, the Vietnam Veterans Memorial Fund is sponsoring a memorial service in Constitution Gardens. I think it would be a fitting tribute to our veterans who fought in that war and most appropriate to pass this legislation in time to commemorate this tribute on Memorial Day.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan (Mr. NEDZI)?

Mr. HAMMERSCHMIDT. Mr. Speaker, I reserve the right to object. I certainly will not object, but I want to thank the gentleman from Michigan (Mr. NEDZI) for his leadership and cooperation in expediting this joint resolution and also the same interest and effort shown by Mr. FRENZEL of Minnesota.

Mr. Speaker, I rise in support of Senate Joint Resolution 119, which would authorize the Vietnam Veterans Memorial Fund, Inc., to establish a memorial on public grounds near the mall and I would hope it would be in West Potomac Park in the District of Columbia. This measure is almost identical to House Joint Resolution 431, which I was privileged to introduce last October. House Joint Resolution 431 now has almost 200 cosponsors, Mr. Speaker, from across the political spectrum, and I am confident that those who joined me on that measure will give Senate Joint Resolution 119 their full support.

I would also remind this body that the resolution passed the other body with 100 cosponsors, one of the few occasions in history that a measure has had the cosponsorship of every Member of that body. I would sincerely hope that it receives the same enthusiasm from our membership.

The memorial which our body will authorize today will be erected at no cost to our taxpayers. The Vietnam Veterans Memorial Fund is developing sufficient voluntary funding resources from the people of this country. The monument will be built subject to the approval of the National Commission on Fine Arts, and will blend in with the existing landscape, enhancing rather than detracting from, that portion of our National Capital where it is erected.

Mr. Speaker, it has taken us a long time, as a society, to overcome the bitterness and polemics that surrounded the word "Vietnam," and to begin to assimilate that experience into our national consciousness. Like almost every war, Vietnam touched all of us. But unlike any recent war, it touched us all in many different ways. One thing we must join together in, at the very outset of our national reconciliation, is the recognition that those who served did so with dignity, and often at great personal cost.

The memorial which this resolution proposes offers a most appropriate device for such a recognition. It will provide us all a visible and attractive remembrance of a period too many have been tempted to forget. It will remember our war dead from Vietnam, but equally as important, it will give us a way to stop for a moment, on a park bench or by a pond, and contemplate an entire era in our history.

I deeply hope that every one of my colleagues will share these sentiments, and join me in support of this resolution, and agree to its passage by unanimous consent.

Mr. Speaker, I withdraw my reservation of objection.

● Mr. PEYSER. Mr. Speaker, I am proud to be a cosponsor and speak in support of the bill before the House of Representatives today, establishing a memorial in honor of the men and women of the U.S. armed services who served in the Vietnam war.

The Vietnam war was one of the most divisive conflicts in our Nation's history. The effects of that war have reached far beyond the battlefield and continue to haunt and hinder us both in our foreign policy and in our self-image as a nation. But despite this, and whatever view of each us may hold on the issue, I think that we can all agree that those who served in that war did so with courage and a sense of duty to this country. They truly signified the principle that we often forget in our self recrimination; and that is the essential dignity in service to one's country.

The memorial we help to establish today recognizes that essential principle. It goes beyond our divisions and serves as a symbol demonstration of our Nation's commitment to resolve the Vietnam experience and restore the unity which existed prior to the war. It serves also as a demonstration of our commitment to honor and provide for those brave and dedicated men and women who served so faithfully during that war.

The site of the memorial itself—near the Lincoln Memorial—signifies these goals. The Lincoln Memorial is itself a symbol of national reconciliation. The new memorial will be located in the very area where mass rallies for and against the war were held. It is fitting that this site was chosen to honor the 57,000 who died and the nearly 3 million who served in Vietnam.●

● Mr. ROSTENKOWSKI. Mr. Speaker, I want to commend the members of the Committee on House Administration for their expeditious action in approving and sending to the floor House Joint Resolution 431, authorizing the Vietnam Veterans Memorial Fund, Inc., to erect a memorial honoring all veterans of the Vietnam war. As a result of this outstanding effort, we have an opportunity today to adopt this legislation and pave the way for it to be signed into law during our national observance of Memorial Day.

I believe it is important to note that this legislation will not involve the expenditure of any U.S. Government funds for the construction of the memorial. Rather, it simply dedicates land within the District of Columbia whereupon a memorial, financed solely through private means, may be built.

As one of over 200 cosponsors of this worthy legislation, I want to once again express my appreciation to the committee, especially the distinguished chairman of the committee and my good friend and colleague from Michigan, the chairman of the subcommittee, for their prompt response to my request—and the requests of others—for swift approval of House Joint Resolution 431.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan (Mr. NEDZI)?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 119

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Vietnam Veterans Memorial Fund, Inc., a nonprofit corporation organized and existing under the laws of the District of Columbia, is authorized to establish a memorial on public grounds in West Potomac Park in the District of Columbia, in honor and recognition of the men and women of the Armed Forces of the United States who served in the Vietnam war.

SEC. 2. (a) The Secretary of the Interior, in consultation with the Vietnam Veterans Memorial Fund, Inc., is authorized and directed to select with the approval of the Commission of Fine Arts and the National Capital Planning Commission a suitable site of approximately two acres in size located in the area of West Potomac Park known as Constitution Gardens in the District of Columbia: *Provided,* That if subsurface soil conditions prevent the engineering of a feasible foundation system for the memorial in a location in that area, then the Secretary of the Interior, in consultation with the Vietnam Veterans Memorial Fund, Inc., is authorized and directed to select a suitable site of approximately two acres in size located

in an area of West Potomac Park north of Independence Avenue other than Constitution Gardens.

(b) The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission: *Provided,* That if the Secretary of the Interior, the Commission of Fine Arts, or the National Capital Planning Commission fails to report his or its approval of or specific objection to such design and plans within ninety days of their submission, his or its approval shall be deemed to be given.

(c) Neither the United States nor the District of Columbia shall be put to any expense in the establishment of the memorial.

SEC. 3. The authority conferred pursuant to this resolution shall lapse unless (1) the establishment of such memorial is commenced within five years from the date of enactment of this resolution, and (2) prior to groundbreaking for actual construction on the site, funds are certified available in an amount sufficient, in the judgment of the Secretary of the Interior based upon the approved design and plans for the memorial, to insure completion of the memorial.

SEC. 4. The maintenance and care of the memorial established under the provisions of this resolution shall be the responsibility of the Secretary of the Interior.

SEC. 5. After establishment of such memorial, the Secretary of the Interior is authorized to provide funds for the operation and maintenance of the Vietnam Veterans Peace and Brotherhood Chapel near Eagles Nest, New Mexico: *Provided,* That, such funds shall be limited to the difference between actual operation and maintenance costs and the contributions for such purposes provided by the Vietnam Veterans Memorial Fund, Inc., subject to such terms and conditions as the Secretary of the Interior may prescribe in furtherance of the purpose of this resolution. Within fifteen days of the date of transmittal to the Congress of any budget request which includes funds to carry out the purposes of this section, the Secretary of the Interior shall notify the Senate Committee on Energy and Natural Resources in writing as to the amount and proposed uses of such funds, together with his justification for such budget request.

AMENDMENTS OFFERED BY MR. NEDZI

Mr. NEDZI. Mr. Speaker, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. NEDZI: Page 1, line 6, strike out "in West Potomac Park".

On page 2, line 5, strike "located" and all of line 6. On line 7, strike "Gardens" and the colon and insert a period and strike all language in section 2(a) following the colon on line 7.

Page 3, line 15, strike out all of section 5.

The SPEAKER pro tempore. The question is on the amendments offered by the gentleman from Michigan (Mr. NEDZI).

The amendments were agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

COMMITTEE JURISDICTION ON SENATE JOINT RESOLUTION 119

(Mr. PHILLIP BURTON asked and was given permission to address the House for 1 minute.)

Mr. PHILLIP BURTON. Mr. Speaker, I have taken this time for the purpose of discussing the Senate joint resolution just passed.

I did not want to interfere with the request for the immediate consideration, but I did want to have this part of the record reflect an observation or two. I decided not to assert our committee's right to have jurisdiction over this matter because of the time constraints that have been earlier mentioned. If our committee would have received a sequential referral which, I believe under the rules we were entitled to, there would have been some issues that we would have addressed for this purpose that I stand up now.

Mr. Speaker, I feel it important that our veterans of the Vietnam conflict be appropriately recognized and that there be an appropriate memorial. Exactly where that memorial ought to be situated I think ought to be decided in a manner most consistent with the treatment we have given veterans of other wars and with other matters in terms of planning most particularly on the Capital Mall.

Mr. Speaker, I do not quite know what the definition of a mall is, but our committee has a number of requests for items to be put on this open mail. It is very limited in space. It is easier to say yes than no, but if we say yes every time someone seeks it, it could create a problem.

I am happy that the resolution now permits the Secretary, working with the veterans' groups, to work out the most appropriate place rather than being required to pick a place whether or not it is a most appropriate place.

There is one other observation I have: The legislation carries with it a requirement there be at least 2 acres. Well, as a city fellow I am not really sure how large that is but I would certainly anticipate the Secretary of the Interior would look at the amount of space that we have given the World War I and World War II veterans and have this be a commensurate amount of space. I do not know if 2 acres is too little or too much. I just pass those thoughts on for the record in the interests not of impeding the decision we have just made but in the interest of seeing that these veterans receive a very thoughtful and appropriate memorial and I am sure as a result of the change in the language such will prove to be the case.

Finally, we do not waive in futura our jurisdiction over this matter, as I would hope the gentleman or his successor in being will accept in the Congresses to come when this matter will be before us again.

GENERAL LEAVE

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the Senate joint resolution (S.J. Res. 119).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2253, ROCK ISLAND TRANSITION ACT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file the conference report on the Senate bill (S. 2253) to provide for an extension of directed service on the Rock Island Railroad, to provide transaction assistance to the purchasers of portions of such railroad, and to provide arrangements for protection of the employees.

CONFERENCE REPORT (H. REPT. NO. 96–1041)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2253) entitled an act to provide for an extension of directed service on the Rock Island Railroad, to provide transaction assistance to the purchasers of portions of such railroad, and to provide arrangements for protection of the employees, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

TITLE I—ROCK ISLAND TRANSITION AND EMPLOYEE ASSISTANCE

SHORT TITLE

SEC. 101. This title may be cited as the "Rock Island Railroad Transition and Employee Assistance Act".

CONGRESSIONAL FINDINGS

SEC. 102. (a) Congress hereby finds that—

(1) uninterrupted continuation of services over Rock Island lines is dependent on adequate employee protection provisions covering Rock Island Railroad employees who are not hired by other railroads;

(2) for those Rock Island Railroad employees not hired by other rail carriers, there is no other practicable means of obtaining funds to meet the necessary costs of such employee protection that are assumed by the Rock Island Railroad;

(3) a cessation of necessary operations of the Rock Island Railroad would have serious repercussions on the economies of the States in which such railroad principally operates; and

(4) premature cessation of services over lines which are the subject of pending purchase application would result in harm to the shipping public and could imperil continuation of vital commuter service.

DEFINITIONS

SEC. 103. As used in this title, the term—

(1) "bankruptcy court" means the court having jurisdiction over the reorganization of the Rock Island Railroad;

(2) "Board" means the Railroad Retirement Board;

(3) "Commission" means the Interstate Commerce Commission;

(4) "employee" includes any employee of the Rock Island Railroad as of August 1, 1979, but does not include any individual after he is offered employment in his craft with a rail carrier providing temporary service over Rock Island Railroad lines and which becomes the acquiring carrier of such lines, or any individual serving as president, vice-president, secretary, treasurer, comptroller, counsel, member of the board of directors, or any other person performing such functions;

(5) the term "Rock Island Railroad" means the Chicago, Rock Island and Pacific Railroad Company; and

(6) the term "Secretary" means the Secretary of Transportation.

SERVICE CONTINUATION

SEC. 104. (a) Notwithstanding the provisions of section 11125 of title 49, United States Code, or Public Law 96-131, the Commission shall order directed service for a period of not to exceed 90 days over any line of the Rock Island Railroad if the Secretary finds and certifies to the Commission that—

(1) a lack of rail service exists which cannot be resolved by a grant of interim operating authority over such line and grains or foods are ready to be shipped to market; or

(2) a lack of rail service exists which cannot be resolved by a grant of interim operating authority over such line and a rail carrier, shipper, State, or other interested party has expressed in writing to the Secretary an interest in purchasing, leasing, or rehabilitating, the particular rail line or facility for purposes of providing rail services, and there is a reasonable expectation that such transaction will be consummated.

(b)(1) Not more than $15,000,000 of the funds available for expenditure by the Secretary out of the Railroad Rehabilitation and Improvement Fund established under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.) may be made available by the Secretary to the Commission for purposes of providing directed service under this section.

(2) Funds may be made available for directed service under this section without regard to the findings of the Secretary required under title V of the Railroad Revitalization and Regulatory Reform Act of 1976, and section 516 of such Act (45 U.S.C. 836) shall not apply to any directed service provided with such funds.

(c) The terms of compensation for all trackage rights, joint facilities, and similar arrangements between other railroads and the trustee of the Rock Island Railroad which are in effect on portions of the lines of the Rock Island Railroad involved in temporary emergency operations shall be continued in effect during the duration of the temporary emergency operating authority with the carrier providing temporary emergency service substituting for the trustee, except where the Rock Island Railroad has been given more favorable treatment by virtue of its bankruptcy. Such continuation shall not alter or affect the ultimate rights of other railroads under trackage rights, joint facilities, or similar arrangements nor prejudice the ultimate determination of any controversy or proceeding concerning rights of the parties with regard to assignment by the trustee of rights in or to the facilities or under the arrangements.

RAILROAD HIRING

SEC. 105. (a) Each person who is an employee of the Rock Island Railroad on August 1, 1979, and who, prior to January 1, 1981, is separated or furloughed (other than for cause) from his employment with such railroad, or from his employment with another rail carrier providing temporary service over lines of the Rock Island Railroad, as a result of a reduction of service by such railroad or such temporary service carrier shall, unless found to be less qualified than other applicants, have the first right of hire by any other rail carrier that is subject to regulation by the Commission for any vacancy that is not covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal or State court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a rail carrier shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.

(b) The rights afforded to Rock Island Railroad employees by this section shall be coequal to the rights afforded to Chicago, Milwaukee, Saint Paul and Pacific Railroad Company employees by section 8 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907).

EMPLOYEE PROTECTION AGREEMENTS

SEC. 106. (a) No later than 10 days after the date of enactment of this Act, in order to avoid disruption of rail service and undue displacement of employees, the Rock Island Railroad and labor organizations representing the employees of such railroad with the assistance of the National Mediation Board, may enter into an agreement providing protection for employees of such railroad who are adversely affected as a result of a reduction in service by such railroad. Such employee protection may include, but need not be limited to, employee relocation incentive compensation, moving expenses, and separation allowances.

(b) If the Rock Island Railroad and the labor organizations representing the employees of such railroad are unable to enter into an employee protection agreement under subsection (a) of this section within 10 days after the date of enactment of this Act, the parties shall immediately submit the matter to the Commission. The Commission shall impose upon the parties by appropriate order a fair and equitable arrangement with respect to employee protection no later than 30 days after the date of enactment of this Act, unless the Rock Island Railroad and the authorized representatives of its employees have by then entered into a labor protection agreement. For purposes of this subsection, the term "fair and equitable" means no less protective of the interests of employees than protection afforded under section 9 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 908), subject to the limitations set forth in section 110 of this title.

(c) If an employee protection arrangement is imposed by the Commission under subsection (b) of this section, the bankruptcy court shall immediately authorize and direct the Rock Island Railroad trustee to, and the Rock Island Railroad trustee and the labor organizations representing the employees of the railroad shall, immediately implement such arrangement.

(d)(1) An order of the Commission under subsection (b) of this section may not be stayed by the Commission or by any court, and an order of the bankruptcy court under subsection (c) of this section may not be stayed by any other court.

(2) Any order described in paragraph (1) of this subsection may be appealed only to the court of appeals of the United States having jurisdiction to review decisions and orders of the bankruptcy court. Any such appeal to such court of appeals shall be filed within 5 days after the date of entry of the order of the Commission or the bankruptcy court, as the case may be, and such court of appeals shall finally determine such appeal within 60 days after the date such appeal is filed. No determination by the court of appeals under this subsection may be reviewed in any other court.

(e)(1) Any claim of an employee for benefits and allowances under an employee protection agreement or arrangement entered into under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under such agreement or arrangement and shall certify such amount to the Rock Island Railroad for payment.

(2) Benefits and allowances under such agreement or arrangement entered into under this section shall be paid by the Rock Island Railroad from its own assets or in accordance with section 110 of this title, and claims of employees for such benefits and allowances shall be treated as administrative expenses of the estate of the Rock Island Railroad.

(f) The first sentence of section 7(b)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(7)) is amended by striking out "and the Milwaukee Railroad Restructuring Act" and inserting in lieu thereof ", the Milwaukee Railroad Restructuring Act, and the Rock Island Railroad Transition and Employee Assistance Act".

EMPLOYMENT OF ROCK ISLAND RAILROAD EMPLOYEES

SEC. 107. (a) The Board shall prepare and maintain—

(1) a list of employees separated from employment with the Rock Island Railroad who indicate a desire to appear on a list to be available to rail carriers; and

(2) a list of employment, by class and craft, available with rail carriers,

based upon information submitted to the Board by the Rock Island Railroad and other rail carriers. Upon the request of any rail carrier, the Board shall make available to such carrier a copy of the list described in paragraph (1) of this subsection.

(b) The Board shall maintain the lists required by subsection (a) of this section through December 31, 1984.

ELECTION

SEC. 108. (a) Any employee who receives any assistance under an employee protection agreement or arrangement entered into under section 106 of this title or any new career training assistance under section 119 of this title shall be deemed to waive any employee protection benefits otherwise available to such employee under the Bankruptcy Act, title 11 of the United States Code, subtitle IV of title 49 of the United States Code, or any applicable contract or agreement.

(b) Any employee of the Rock Island Railroad who is entitled to receive assistance under this title shall, no later than April 1, 1981, file a statement with the Board indicating whether such employee elects to receive (1) assistance under this title; or (2) any employee protection benefits otherwise available to such employee under the Bankruptcy Act, title 11, United States Code, subtitle IV of title 49, United States Code, or any applicable contract or agreement.

(c) With regard to any employee who elects benefits under subsection (b)(2) of this section, nothing in this title shall be deemed to determine or otherwise affect the priority status or timing of payment of, or the liability for a claim or claims, if any, for employee protection which might have existed in the absence of this title.

(d) An employee shall not be eligible to receive any assistance (other than moving expenses) under an employee protection agreement or arrangement entered into under section 106 of this title or any new career training assistance under section 119 of this title—

(1) during any period in which such employee is employed by any rail carrier providing temporary service over any lines of the Rock Island Railroad; or

(2) at any time after the date such employee receives an offer of employment, in his craft and for which such employee is qualified, from a rail carrier acquiring lines of the Rock Island Railroad.

AUTHORIZATION OF APPROPRIATIONS

SEC. 109. (a) Section 14(c) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 913(c)) is amended—

(1) by inserting "and the Rock Island Railroad Transition and Employee Assistance Act" immediately after "this Act"; and

(2) by adding at the end thereof the following new sentence: "Effective October 1, 1980, there is authorized to be appropriated to the Board an additional $1,000,000 to carry out its administrative expenses under this Act and the Rock Island Railroad Transition and Employee Assistance Act.".

(b) Section 14(b) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 913(b)) is amended by adding at the end thereof the following new sentence: "Effective October 1, 1980, there is authorized to be appropriated an additional $1,500,000 for new career training assistance under section 12 of this Act and section 119 of the Rock Island Railroad Transition and Employee Assistance Act.".

OBLIGATION GUARANTEES

SEC. 110. (a) The Secretary, under the authority of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831), shall guarantee obligations of the Rock Island Railroad for purposes of providing employee protection in accordance with the terms of any employee protection agreement or arrangement entered into under section 106 of this title.

(b) Any obligation guaranteed pursuant to this section shall be treated as an administrative expense of the estate of the Rock Island Railroad.

(c) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary pursuant to this section shall not exceed $75,000,000.

(d) The total liability of the Rock Island Railroad in connection with benefits and allowances provided under any employee protection agreement or arrangement entered into under section 106 of this title shall not exceed $75,000,000.

(e) Except in connection with obligations guaranteed under this section, the United States shall incur no liability in connection with any employee protection agreement or arrangement entered into under section 106 of this title.

(f) Section 511(g) and section 516 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(g) and 836) shall not apply to any obligation guaranteed under this section.

EXPEDITED PROCEEDINGS

SEC. 111. (a) The Commission shall give all proceedings involving the Rock Island Railroad preference over all other pending proceedings related to rail carriers and make all of its decisions at the earliest practicable time.

(b) The Commission shall, within 100 days of the filing of an application (or such shorter period as the court may set) pursuant to section 17 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 915), reach a decision on all proceedings filed after January 1, 1980, which involve a sale, transfer or lease of any line of the Rock Island Railroad to a solvent carrier.

TRANSACTION ASSISTANCE

SEC. 112. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended by adding at the end thereof the following new subsection:

"(h) PURCHASE OF ESSENTIAL PROPERTIES FOR COMMON CARRIER SERVICE.—(1) Notwithstanding subsections (a) through (g) of this section (other than subsections (b)(2) and (d)(3)), the Secretary shall, upon application of a noncarrier entity—

"(A) purchase, from funds available on May 1, 1980, not less than $25,000,000 in redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section as necessary for the purchase, lease, or rehabilitation of properties of the Rock Island Railroad by responsible noncarrier entities to be used for common carrier rail service; and

"(B) purchase not more than $18,000,000 in redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section as necessary for the purchase of properties of the Milwaukee Railroad by responsible noncarrier entities to be used for common carrier rail service, to the extent that the Secretary determines that funds are available.

"(2) Preference shares and trustee certificates purchased under this subsection shall be purchased under terms and conditions that insure that the applicant will be financially capable of making the requisite dividend or interest and redemption or principal payments without impairing its financial resources, and the Secretary shall insure that all assistance provided under this subsection is likely to be repaid or can be secured.

"(3)(A)(i) For purposes of this subsection, a responsible noncarrier entity may include an association composed of representatives of national railway labor organizations, employee coalitions, shippers, or any combination thereof, and States or State organizations, which wish to acquire, lease, or rehabilitate properties of the Rock Island Railroad or the Milwaukee Railroad pursuant to a feasible employee, employee-shipper, or State ownership plan. A responsible noncarrier entity may also include any railroad that wishes to contribute any of its properties under common ownership with the property being acquired by the association.

"(ii) Any ownership plan described in clause (i) of this subparagraph shall be submitted to the Secretary no later than August 20, 1980, or such later date as the Secretary considers appropriate.

"(B) For purposes of this subsection, the term 'railroad' in subsection (a) of this section shall be deemed to include any responsible noncarrier entity.

"(C) For purposes of this subsection, the return on redeemable preference shares shall be the minimum established pursuant to section 506(a)(3) of this title.

"(4) This subsection shall apply to purchase applications filed with the Commission prior to September 15, 1980, and approved by the court having jurisdiction over the reorganization of the Rock Island Railroad or the Milwaukee Railroad, as the case may be, and by the Commission.".

APPLICABILITY OF NEPA AND EPCA

SEC. 113. The provisions of the National Environmental Policy Act and section 382(b) of the Energy Policy and Conservation Act (42 U.S.C. 6362(b)) shall not apply to transactions carried out pursuant to this title.

AUTHORITY OF THE RAILROAD RETIREMENT BOARD

SEC. 114. (a) The Board may prescribe such regulations as may be necessary to carry out its duties under this title.

(b) In carrying out its duties under this title, the Board may exercise such of the powers, duties, and remedies provided in subsections (a), (b), and (d) of section 12 of the Railroad Unemployment Insurance Act (45 U.S.C. 362(a),(b), and (d)) as are not inconsistent with the provisions of this title.

PUBLICATIONS AND REPORTS

SEC. 115. Within 45 days after the date of enactment of this Act, the Board shall publish, and make available for distribution by the Rock Island Railroad to all eligible employees, a document which describes in detail the rights of such employees under sections 106, 107, 108 and 119 of this title.

AMENDMENTS TO MILWAUKEE RAILROAD RESTRUCTURING ACT

SEC. 116. (a) Section 18 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 916) is amended—

(1) by striking "Until" and inserting in lieu thereof "(a) Except as provided in subsection (b) of this section, until"; and

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

"(b) The Commission shall upon request provide for directed service, not to exceed 30 days during the period immediately prior to acquisition, on the Milwaukee Railroad under section 11125 of title 49, United States Code. Such directed service shall be limited to those lines or line segments where legislation has been enacted by a State legislature prior to the date of enactment of this subsection which would provide for such State to tender a bona fide offer for acquisition of such lines or line segments. The Commission may order directed service by the Milwaukee Railroad under this subsection without inclusion of a 6 percent profit factor. The Commission shall take the action described in this subsection only in the event that the Secretary of Transportation determines that such service cannot be continued under the Emergency Rail Service Assistance Act.".

(b) Section 22(a) of such Act (45 U.S.C. 920(a)) is amended by striking "Until" and inserting in lieu thereof "Subject to the provisions of section 18 of this Act, until".

RAIL TECHNOLOGICAL IMPROVEMENTS

SEC. 117. Notwithstanding any other provision of law, the Federal Railroad Administration shall have the authority, after a hearing and consistent with findings based upon evidence developed therein or pursuant to expressions of agreement between national railroad labor representatives and the developer or operator of new equipment or technology, to exempt from the mandatory requirements of the provisions of the Act of March 2, 1893, the Act of March 2, 1903, and the Act of April 14, 1910 (45 U.S.C. 1 through 16), also referred to as the Safety Appliance Acts, any railroad equipment, or equipment which will be operated on rails, when such requirements preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under the existing statutes.

AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 118. (a) Section 216(f)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(5)) is amended by adding the following sentence after the first sentence thereof: "For purposes of this subsection, the Railway Labor Executives' Association shall be deemed to represent all of the representatives of crafts or classes of employees of the Corporation and its subsidiaries as though that organization held powers of attorney from each representative of a craft or class for the limited purposes of negotiating and agreeing upon an employee stock ownership plan.".

(b) Section 216(f)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(5)) is further amended by adding the following sentence after the second sentence thereof: "The plan shall not be subject to change under the provisions of section 6 of the Railway Labor Act until after such time as securities have been distributed from the plan to the participants in the plan or their beneficiaries pursuant to the terms of the plan.".

(c) Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is further amended by adding the following at the end thereof:

"(8)(A) Except as provided in subparagraph (B) of this paragraph, no person described in subparagraph (C) of this paragraph shall have or be subject to any fiduciary responsibility, obligation, or duty, nor shall any such person be subject to civil liability, under any Federal or State law, as a fiduciary or otherwise—

"(i) in connection with the employee stock ownership plan and related trust established by the Corporation pursuant to the requirements of this subsection or with ConRail Equity Corporation (I) on account of any reorganization or restructuring of the Corporation, its successors or assigns, or their assets or capital structure, or (II) on account of any action taken or not taken by the Corporation which may affect its ability to attain the performance levels established in connection with the plan pursuant to paragraph (2)(A)(ii) of this subsection;

"(ii) for or in connection with the establishment, continuation or implementation of the plan and related trust or of ConRail Equity Corporation or the acquisition of, investment in or retention of any security of the Corporation or ConRail Equity Corporation, or of any of their successors and assigns, by the plan or ConRail Equity Corporation, or the disposition of any such security to the extent that such disposition is made in connection with a reorganization or restructuring of the Corporation, its successors and assigns, or their assets or capital structure, as directed or approved by or on behalf of the Association or the United States, or the acquisition or retention of any cash, security or other property received in connection with any such reorganization or restructuring; or

"(iii) for or in connection with any other action taken or not taken pursuant to any term or condition of the plan or related trust agreement or of the articles of incorporation or bylaws of ConRail Equity Corporation.

Any directions described in clauses (i)(I), (ii), or (iii) shall be taken at the direction, or with the consent, of the Association or of the Secretary or his designate.

"(B) Subparagraph (A) of this paragraph shall not be interpreted to relieve any person from any fiduciary or other responsibility, obligation or duty under any Federal or State law to take or not to take actions with respect to the plan in connection with (i) receiving contributions, (ii) exercising custodial responsibilities, (iii) determining eligibility to participate in the plan, (iv) calculating, determining and paying benefits, (v) processing and deciding claims, (vi) preparing and distributing plan information, benefit statements, returns and reports, (vii) maintaining plan records, (viii) appointing plan fiduciaries and other persons to advise or assist in plan administration and (ix) other than as provided in subparagraph (A), acquiring, holding or disposing of plan assets.

"(C) For purposes of subparagraph (A) of this paragraph, the term 'person' includes each of the following:

"(i) the trustee or trustees of the plan, the Corporation and its subsidies, ConRail Equity Corporation, the Association, and any of their successors and assigns;

"(ii) each director, officer, employee and agent of the Corporation of any of its subsidiaries, of ConRail Equity Corporation, of the plan, of the Association or of any of their successors and assigns; and

"(iii) each member of the Finance Committee and any of their employees and agents.

"(D) Neither this paragraph nor paragraph (9) of this subsection shall be construed to grant immunity from any criminal law of the United States or of any State or the District of Columbia.

"(9) The United States shall indemnify, defend, and hold harmless the persons described in paragraph (8)(C) of this subsection from and against any and all liabilities, claims, actions, judgments, amounts paid in settlement, and costs and expenses (including reasonable fees of accountants, experts, and attorneys) actually incurred in connection with the establishment, implementation, or operation of the plan or ConRail Equity Corporation or with any transaction which is required by or is appropriate to effectuate fully the provisions of this subsection, except as may arise in connection with the execution of a responsibility, obligation, or duty excluded from paragraph (8)(A) by paragraph (8)(B), if it is determined that such persons were acting in good faith. The indemnity provided in this paragraph shall be a full faith and credit obligation of the United States.

"(10) All securities of the Corporation, all securities of any subsidiary of the Corporation and of ConRail Equity Corporation, and all interests in the employee stock ownership plan which are issued or transferred in connection with the employee stock ownership plan established by the Corporation pursuant to the requirements of this subsection shall be deemed for all purposes to have been issued subject to and authorized and approved pursuant to section 11301(b) of title 49 of the United States Code and any corresponding provision of any successor statute.".

NEW CAREER TRAINING ASSISTANCE

SEC. 119. (a) An employee who elects to receive a separation allowance from the Rock Island Railroad under an employee protection agreement or arrangement entered into under section 106 of this title may receive from the Board reasonable expenses for training in qualified institutions for new career opportunities.

(b) To be eligible for assistance under this section, an employee—

(1) must first exhaust any Federal educational benefits available to such employee under any existing program; and

(2) must begin his course of training within two years following the date of such employee's separation from employment with the Rock Island Railroad.

(c) Reasonable expenses for assistance under this section shall be determined by the Board on the basis of an application therefor filed by an employee with the Board.

(d) No assistance may be provided under this section after April 1, 1984.

(e) As used in this section—

(1) the term "expenses" means actual, reasonable expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed $3,000; and

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38 of the United States Code, or a State-accredited institution which has been in existence for not less than two years.

(f) Section 12(e)(2) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 911(e)(2)) is amended by inserting the following immediately before the period at the end thereof: ", or a State-accredited institution which has been in existence for not less than two years".

DIRECTED SERVICE

SEC. 120. (a) In the event agreement cannot be reached between the Rock Island Railroad and any party desiring to provide commuter service, the commission shall order directed service, for the two-year period beginning on the date of enactment of this Act, over any passenger commuter line of the Rock Island Railroad that was in operation on March 1, 1980, if the directed service carrier agrees to provide such service without payment under section 11125(b)(5) of title 49 of the United States Code. If the parties are unable to agree on compensation, the trustee of the Rock Island Railroad shall receive compensation for the property and facilities of the Rock Island Railroad on terms determined by the Commission to be reasonable.

(b) Notwithstanding any other provision of law, a passenger commuter line of the Rock Island Railroad over which directed service is provided pursuant to this section may not be abandoned, and service over such line may not be discontinued, during the period of such directed service.

TEMPORARY RAIL BANKING

SEC. 121. During the 180-day period beginning on the date of enactment of this Act, no rail line or facility of the Rock Island Railroad which has been approved for abandonment by the Commission or the bankruptcy court may be downgraded, scrapped, or otherwise disposed of without the approval of the Secretary under this section. In no case before abandonment has been approved and before the 180-day period has elapsed shall the Secretary approve a disposition of such portion of the rail line or related facility to any carrier or other entity not engaged in providing railroad services or not formed for the purpose of providing railroad services. The Secretary, upon application by the Rock Island Railroad, shall grant such approval unless he finds that—

(1) a rail carrier, shipper, State, or other interested party has expressed in writing an interest in purchasing, leasing or rehabilitating the particular rail line or facility for purposes of providing rail service; and

(2) there is a reasonable expectation that such purchase transaction will be consummated.

TEMPORARY OPERATING APPROVAL

SEC. 122. (a) The Commission may authorize any rail carrier willing to do so voluntarily to use the tracks and facilities of the Rock Island Railroad or the Milwaukee Railroad. The use of such tracks and facilities shall be under such terms of compensation as the carriers establish between themselves, or if the carriers are unable to agree, under such terms of compensation as the Commission finds to be reasonable.

(b) In carrying out the provisions of this section, the Commission shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with the traffic subject to the action of the Commission.

(c) As used in this section, the term "Milwaukee Railroad" means the Chicago, Milwaukee, Saint Paul and Pacific Railroad Company.

DEFINITION OF RESTRUCTURED MILWAUKEE RAILROAD

SEC. 123. Section 3(6) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 902(6)) is amended to read as follows:

"(6) the term 'restructured Milwaukee Railroad' means the entity that is designated as the reorganized railroad under the reorganization plan for the Milwaukee Railroad finally certified by the Commission.".

SAVINGS PROVISION

SEC. 124. If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

TITLE II—RAIL PASSENGER CORRIDORS

SHORT TITLE

SEC. 201. This title may be cited as the "Passenger Railroad Rebuilding Act of 1980".

RAIL PASSENGER CORRIDOR SERVICE

SEC. 202. Section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853) is amended—

(1) in the first sentence, by striking "goals:" and inserting in lieu thereof "goals to the extent compatible with the amount of

authorizations specified in section 704 of this title;";

(2) in paragraph (1)(A)(i) thereof, by striking "Within 5 years after the date of enactment of this Act," and inserting in lieu thereof "No later than September 30, 1985,"; and

(3) in the fourth sentence of paragraph (1)(E), by striking out "6" and inserting in lieu thereof "9".

SEPARATION OF PASSENGER AND FREIGHT TRAFFIC

SEC. 203. Section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853) is further amended—

(1) by inserting "(A)" immediately after the paragraph heading in paragraph (3) and by adding at the end of such paragraph the following:

"(B)(i) Within 6 months after the date of enactment of the Passenger Railroad Rebuilding Act of 1980, the Department of Transportation shall develop plans for alternate off-corridor routings of freight traffic over lines along the Northeast Corridor between the Washington, District of Columbia Metropolitan area and the New York Metropolitan area, including intermediate points.

"(ii) The Secretary may enter into agreements with rail freight carriers and regional transportation agencies for a period of no less than 5 years to provide for the implementation by such rail carriers of the off-corridor routings on such terms and conditions as the parties may agree. Promptly upon reaching such agreement, the Secretary shall apply to the Commission for approval of the agreement and all related agreements accompanying such application.

(iii) If the Commission finds that approval of such agreements is necessary to carry out the purposes of this Act, it shall, within 90 days after the receipt of the application, approve such application and related agreements including the provision of service use of tracks and facilities as provided in such application.

"(iv) If the Secretary and any other involved rail freight carriers are unable to reach the agreement or agreements necessary as provided in clause (ii) of this subparagraph, the Secretary may, with the consent of all involved rail freight carriers, make application to the Commission which shall, within 90 days after such application, if it finds that doing so is necessary to carry out the purposes of this Act, find the terms and conditions for the agreement necessary and such terms and conditions shall be binding upon all involved rail freight carriers.

"(v) Within 12 months after the date of enactment of the Passenger Railroad Rebuilding Act, the Secretary shall submit to the Congress a report on:

"(I) an evaluation of the extent to which passenger and freight operations should be separated in the Northeast Corridor; and

"(II) an evaluation of any operational, safety, maintenance, or other problems of mixing freight and passenger service on the same rail lines.

In the preparation of such report, the Secretary shall consult with the Comptroller General of the United States, the National Railroad Passenger Corporation, the Association, affected railroads, and other interested parties. The Secretary, in preparing such report, shall consider such factors as congestion, delays to both passengers and freight, fuel efficiency, safety, the control of train operations, and the impact of diversion to other modes and the impact of diversion on other modes."; and

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

"(6) ELIMINATION OF CONGESTION.—The elimination, to the maximum extent practicable, of congestion in rail freight and rail passenger traffic at the Baltimore and Potomac Tunnel in Baltimare, Maryland, by the rehabilitation and improvement of such tunnel and the rail lines approaching such tunnel, for purposes of implementing the Northeast Corridor improvement project under this title.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 204. (a) Section 704(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)) is amended—

(1) in paragraph (1) thereof, by striking "$1,600,000,000" and inserting in lieu thereof "$2,313,000,000";

(2) in paragraph (1) thereof, by striking out "and after such goals have been achieved, the goals of section 703(1)(A)(ii)";

(3) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new paragraph:

"(4) $37,000,000 to remain available until expended in order to effectuate the goals of section 703(3)(B) and section 703(6) of this title.".

(b) Section 704 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854) is amended by adding at the end thereof the following new subsections:

"(h) ACQUISITION OF REAL PROPERTY.—The Secretary is authorized to acquire for the United States, by lease, purchase, condemnation, or otherwise, any interest in real property (including lands, easements, and rights-of-way, and any other property interests, including contract rights) which the Secretary considers necessary to effectuate the goals of section 703 of this title.

"(i) REIMBURSEMENT AGREEMENTS.—Where a portion of the costs of improvements authorized under section 703 of this title are to be borne by a State or local or regional transportation authorities or other responsible parties, the Secretary is authorized to enter into agreements with such cost-sharing parties providing for the Secretary to carry out such improvements with funds appropriated pursuant to this section and requiring reimbursement to the Secretary by the cost-sharing parties of their portion of the costs of such improvements. Where the Secretary has entered into such reimbursement agreements, the Secretary is further authorized, to the extent and in the amounts provided in appropriation Acts, to incur obligations for contracts to carry out such improvements in anticipation of such reimbursement. Funds reimbursed to the Secretary shall be credited to the appropriation originally charged for the costs of such improvements and shall be available for further obligation.

"(j) EXCESS EQUIPMENT AND OTHER PROPERTY.—Notwithstanding the provisions of section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) or of any other law, the Secretary may transfer to the National Railroad Passenger Corporation, in accordance with procedures which the Secretary shall establish, excess real or personal property from the Northeast Corridor improvement project. As consideration to the United States for such transfer, property so transferred shall be made subject to the mortgage entered into pursuant to subsection (e) of this section. For purposes of this subsection, the term 'excess real or personal property' means—

"(1) any interest in real property acquired under the authority of subsection (h) of this section which is determined by the Secretary to be (A) usable by the National Railroad Passenger Corporation, and (B) no longer required by the Federal Government in order to implement the Northeast Corridor improvement project; or

"(2) any item of personal property, such as equipment, which is acquired with funds authorized under this section.".

(c) The amendments made by this section shall take effect on October 1, 1980.

MANAGEMENT GOAL

SEC. 205. (a) Section 701 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851) is amended by adding at the end thereof the following new subsection:

"(d) MANAGEMENT GOAL.—(1) It shall be a goal of the National Railroad Passenger Corporation to manage its operating costs pricing policies, and other factors so that annual revenues derived from the operation of intercity rail passenger service over the Northeast Corridor route between Washington, District of Columbia, and Boston, Massachusetts, shall equal or exceed:

"(A) 55 percent of the annual operating costs of providing such service in fiscal year 1981;

"(B) 75 percent of the annual operating costs of providing such service in fiscal years 1982 through 1986; and

"(C) 100 percent of the annual operating costs of providing such service in subsequent fiscal years.

"(2) The National Railroad Passenger Corporation shall include in the annual report required by sections 308 and 805 of the Rail Passenger Services Act a discussion and accounting of its success in meeting the goal specified in subsection (a) of this section.".

TRANSFER OF AUTHORITY

SEC. 206. (a) Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.) is amended by redesignating sections 705 and 706 as sections 706 and 707, respectively, and by inserting after section 704 the following new section:

"TRANSFER OF AUTHORITY

"SEC. 705. (a) TRACK IMPROVEMENTS.—Within 90 days after the date of enactment of the Passenger Railroad Rebuilding Act of 1980, the Secretary and the National Railroad Passenger Corporation shall agree on the reallocation to the Corporation of authority and responsibility with respect to the contracting of construction solely related to track improvements in connection with the Northeast Corridor improvement project.

"(b) OTHER AUTHORITY.—Effective October 1, 1985, the Secretary shall transfer to the Corporation all authority and responsibility for carrying out the Northeast Corridor improvement project and implementing the goals of section 703 of this title.".

(b) The table of contents of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by striking out the items relating to sections 705 and 706 and inserting immediately after the item relating to section 704 the following:

"Sec. 705. Transfer of authority.
"Sec. 706. Conforming amendments.
"Sec. 707. Facilities with historical or architectural significance.".

WORKING CAPITAL FUND

SEC. 207. Section 9 of the Department of Transportation Act (49 U.S.C. 1657) is amended by adding at the end thereof the following new subsection:

"(r)(1) The Secretary is authorized to establish a working capital fund for financing the activities of the Transportation Systems Center. Such fund will be effective on October 1, 1980, and shall be available without fiscal year limitation. The Transportation Systems Center is authorized to perform research, development, test, evaluation, analysis, and other related activities as the Secretary may direct for the Department and other Government agencies and, when approved by the Secretary or his designee, for State and local governments, other public authorities, private sources, and foreign countries.

"(2) The capital of the fund shall consist of—

"(A) the net assets of the Transportation

Systems Center as of October 1, 1980, including any unexpended advances made to the Center for which valid obligations are incurred as of September 30, 1980;

"(B) any appropriations to the fund, which are hereby authorized to be made; and

"(C) the fair and reasonable value of property or other assets transferred to the fund after September 30, 1980, by the Department and other agencies of the Government less the related liabilities and unpaid obligations, and the fair and reasonable value of property or other assets donated to the fund from other sources.

"(3) The fund shall be reimbursed or credited with advance payments from applicable funds or appropriations of the Department and other Federal agencies, and with advance payments from other sources, as authorized by the Secretary or his designee, for services provided at rates that will recover the expense of operation, including accrual of annual leave and overhead, and for acquisition of property and equipment in accordance with regulations to be issued by the Secretary. The fund shall also be credited with receipts from the sale or exchange of property or in payment for loss or damage of property held by the fund.

"(4) At the close of each fiscal year, there shall be transferred into the Treasury as miscellaneous receipts any funds accumulated which the Secretary determines to be surplus to the needs of the working capital fund.".

AMENDMENT TO RAIL PASSENGER SERVICE ACT

SEC. 208. Effective October 1, 1980, section 601(b)(3) of the Rail Passenger Service Act of 1970 (45 U.S.C. 601(b)(3)) is repealed.

PRIORITIES FOR IMPROVEMENTS

SEC. 209. Section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976 is further amended by adding at the end thereof the following new paragraph:

"(7) PRIORITIES FOR IMPROVEMENTS.—The following considerations shall be applied to the selection and scheduling of specific projects, in the following order:

"(A) Safety of the passengers and users of the Northeast Corridor must be paramount, and safety-related items should be completed prior to other items.

"(B) Potential ridership should be considered, with those activities which benefit the greatest number of passengers completed before those involving fewer passengers.

"(C) Reliability of intercity passenger service must be emphasized.

"(D) Trip-time requirements of this Act must be achieved to the extent compatible with the priorities cited in subparagraphs (A) through (C) of this paragraph.

"(E) Reducing maintenance cost levels is desirable, and improvements which will pay for the investment by achieving lower operating or maintenance cost should be implemented.

"(F) On-time performance of Northeast Corridor commuter and freight operations must be optimized, and construction operations should be scheduled in order that the fewest possible passengers are inconvenienced and service is maintained.

"(G) Planning should focus on completing activities which will provide immediate benefits to the users of the Northeast Corridor.".

AUTHORITY OF THE SECRETARY

SEC. 210. Section 704(c) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(c)) is amended—

(1) by striking out "COORDINATION.—The Secretary" and inserting in lieu thereof "COORDINATION AND CONSULTATION.—(1) The Secretary"; and

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

"(2) The Secretary shall consult with the Secretary of Housing and Urban Development and the Secretary of Commerce and with other appropriate Federal officials to take steps to utilize Federal funds from the several Federal departments to assist and encourage public and private redevelopment in the vicinity of urban rail stations on the Northeast Corridor served by intercity and commuter rail service for purposes of aiding in the revitalization of urban areas around such stations. The Secretaries shall, within one year after the date of the enactment of this subsection, report to the Congress on the methods by which Federal funds from the several Federal departments have been and will be coordinated to achieve urban redevelopment and revitalization in the vicinity of such stations.".

DEMONSTRATION SERVICE

SEC. 211. Section 601(b)(1)(B) of the Rail Passenger Service Act (45 U.S.C. 601(b)(1)(B)) is amended by inserting immediately after "1981," the following: "of which $500,000 may be expended for the purchase of a self-propelled single car capable of carrying 50 to 60 passengers for purposes of demonstrating the feasibility of developing feeder service to basic system service and State subsidized service,".

RAIL PASSENGER CORRIDORS

SEC. 212. The Rail Passenger Service Act (45 U.S.C. 501 et seq.) is further amended by adding at the end thereof the following new title:

"TITLE X—RAIL PASSENGER CORRIDORS

"SEC. 1001: DEVELOPMENT OF EVALUATION METHOD.

"(a) The Secretary, in consultation with the Corporation, shall develop a method for evaluating rail passenger corridors.

"(b)(1) The evaluation method developed by the Secretary under this section shall be designed to determine which corridors (A) have the greatest potential for attracting riders on rail passenger service in the corridor, (B) have the greatest potential to reduce energy consumption, and (C) are capable of providing cost-effective rail passenger service.

"(2) In developing an evaluation method for purposes of making the determinations described in paragraph (1) of this subsection, the Secretary shall consider at least each of the following factors:

"(A) Potential ridership.

"(B) Operating costs and revenues.

"(C) Preliminary information on the costs of capital expenditures required.

"(D) Economic and demographic growth projections.

"(E) The evidence of State commitment to rail passenger services.

"(F) The adequacy of energy efficiency of other transportation modes in the area served.

"(c) The Secretary shall, in consultation with the Corporation, determine which corridors have the greatest potential to attract riders, reduce energy consumption, and provide cost effective rail passenger service according to the evaluation method developed under subsection (a), and shall establish a priority ranking of such corridors.

"(d) The Secretary shall, within 60 days after the date of enactment of this title, submit the proposed method for evaluating rail passenger corridors (together with explanatory material) and the ranking of the corridors with the greatest potential to both Houses of Congress and to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate.

"SEC. 1002. DESIGN AND ENGINEERING.

"(a) Upon completion of the Secretary's ranking of corridors under section 1001 of this title, the Corporation shall develop design and engineering plans to the extent necessary to provide accurate information on capital expenditures for improvements and equipment, operating cost projections, running times, and other information which the Corporation, in consultation with the Secretary, determines necessary to complete an accurate assessment of the anticipated costs and benefits of instituting new service in such corridors.

"(b) In preparing a design and engineering plan for a corridor under this section, the Corporation shall consult with the Secretary and shall request the views of the appropriate officials of each State in such corridor.

"(c)(1) The Corporation shall develop a design and engineering plan for a corridor under this section cooperatively with the rail carriers that own tracks and facilities used or to be used in providing passenger service in such corridor.

"(2) If a rail carrier described in paragraph (1) of this subsection is unwilling to cooperate with the Corporation in developing a design and engineering plan, the Corporation may apply to the Secretary for assistance in obtaining such cooperation. The Secretary may require such a private rail carrier to cooperate with the Corporation in developing such plan, and shall fix an amount which the Corporations shall reimburse such carrier for the work it performs.

"SEC. 1003. FINAL CORRIDOR EVALUATION.

"(a) The Secretary and the Corporation shall prepare a final corridor evaluation and submit a report to both Houses of Congress and to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Commerce, Science and Transportation of the Senate with respect to each corridor. Such report shall include for each corridor—

"(1) ridership projections for rail passenger service in such corridor;

"(2) operating cost and revenue projections for such corridor;

"(3) projected capital expenditures, as determined by the Corporation under section 1002, for improvements in such corridor.

"(b) The Secretary and the Corporation shall submit such a report on corridor evaluations by February 15, 1981. If the Secretary and the Corporation believe that further analysis is required after February 15, 1981, they shall submit a supplemental report with such additional information.

"SEC. 1004. EQUIPMENT ACQUISITION.

"The Corporation shall, to the extent of funds available under section 1008(a)(2) of this Act, acquire necessary equipment for purposes of providing service in rail passenger corridors.

"SEC. 1005. PRIVATE SECTOR DEVELOPMENT.

"(a) The Secretary shall encourage the private sector development of potential rail passenger corridors, including the corridor between Atlantic City, New Jersey, and Philadelphia, Pennsylvania.

"(b) In order to carry out the purposes of this section, the Secretary shall—

"(1) in cooperation with private rail carriers, the Corporation, the Consolidated Rail Corporation, commuter agencies, and State and local transportation authorities, take all necessary steps to remove institutional and legal barriers to the private development of rail passenger corridors;

"(2) ensure that investment of Federal funds in contiguous corridors is coordinated with privately developed corridors; and

"(3) coordinate the investment of Federal funds with State, local, and private funds for nonoperational improvements, such as stations, in privately developed corridors.

"(c) The Secretary shall, no later than February 15, 1981, submit a report to the

Congress describing the action taken under this section.

"SEC. 1006. SPEED RESTRICTIONS

"(a) The Corporation shall identify any restriction imposed by a State or local government on the speed of Amtrak trains that the Corporation determines impedes the achievement of high-speed intercity rail passenger service by the Corporation.

"(b) The Corporation shall consult with each State or local government that imposes a speed restriction identified under subsection (a) of this section, for purposes of (1) evaluating alternatives to such speed restriction, taking into account the particular local safety hazard which is the basis for such restriction, and (2) considering the possibility of eliminating or modifying such speed restriction in order to permit safe operations at higher speeds in the State or locality involved.

"SEC. 1007. SERVICE BETWEEN CORRIDORS.

"If the Corporation determines that improvements in or institution of rail passenger service on a route between corridors would be justified by an increase in overall ridership on Amtrak trains, the Corporation shall undertake such service or improvements in such service as it considers appropriate in order to increase ridership on such route and in the connecting corridors.

"SEC. 1008. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to the Secretary—

"(1) for the evaluation of corridors under sections 1001 and 1003 of this title and for the benefits of the Corporation in preparing design and engineering plans under sections 1002 and 1003 of this title, not to exceed $38,000,000 for the fiscal year ending September 30, 1981; and

"(2) for the acquisition of equipment under section 1004 of this title, not to exceed $25,000,000 for the fiscal year ending September 30, 1982.

"(b) There is authorized to be appropriated, out of funds available under section 704(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976, for private sector development under section 1005 of this title, not to exceed $200,000 for the fiscal year ending September 30, 1981.

"(c) Amounts appropriated under subsection (a) of this section are authorized to remain available until expended.".

AMTRAK INTERCITY SERVICE

SEC. 213. Section 403(d)(2) of the Rail Passenger Service Act (45 U.S.C. 563(d)(2)) is amended by striking out "April 1, 1981" and inserting in lieu thereof "October 1, 1981".

CONRAIL EMPLOYEE PROTECTION

SEC. 214. (a) The Consolidated Railroad Corporation shall make payments in accordance with title V of the Regional Rail Reorganization Act of 1973, and the United States Railway Association shall not, as a result of such payments, withhold any funds from the Corporation.

(b) This section shall take effect as of March 1, 1980, and shall remain in effect until the expiration of the 45-day period beginning on the date of enactment of this Act. After the expiration of such 45-day period, payments by the Consolidated Rail Corporation under title V of the Regional Rail Reorganization Act of 1973, and funding of the Corporation by the United States Railway Association, shall be governed by applicable law.

RELOCATION OF FACILITIES

SEC. 215. (a) The Secretary of Transportation may not take any action with respect to the relocation of the Amtrak maintenance-of-way facility at Bristol, Pennsylvania, until 60 days after the date the Secretary reports to the Congress under subsection (b) of this section.

(b) The Secretary of Transportation shall consider and report to the Congress with respect to—

(1) preliminary design plans for sites which are potential alternatives to the maintenance-of-way facility referred to in subsection (a) of this section;

(2) the current value, current use, and alternative uses of such potential alternative sites;

(3) potential labor protection costs to be incurred in the maintenance-of-way relocation; and

(4) potential problems arising from jurisdictional labor disputes arising as a result of such a relocation.

OPERATION OF ADDITIONAL TRAINS

SEC. 216. Section 402 of the Rail Passenger Service Act (45 U.S.C. 562) is amended by adding at the end thereof the following new subsection:

"(h) Upon receipt of an application from the Corporation in any situation where the Corporation is unable to obtain a satisfactory, voluntary agreement from a rail carrier for operation of additional trains on the rail lines of that rail carrier, the Secretary may, after a hearing on the record, order such rail carrier, within 60 days, to permit or provide requested operation of trains of the Corporation over such rail lines on schedules based upon legally permissible operating times. If the Secretary determines not to hold a hearing, the Secretary, within 30 days after receipt of an application from the Corporation, shall publish in the Federal Register his reasons for not holding a hearing. Any such hearing must include a consideration of whether such an order would unduly impair freight operations of the rail carrier involved, and the burden shall be on the railroad seeking to oppose the operation of an additional train to demonstrate that the requested operation will indeed impair freight operations. In establishing such scheduled running times, the Secretary shall give proper consideration to the statutory goal that the Corporation shall implement schedules which will attain a system-wide average speed of at least 55 miles per hour which can be adhered to with a high degree of reliability and passenger comfort. The compensation payable by the Corporation to a rail carrier for an operation ordered pursuant to this subsection shall be that which is properly established pursuant to an agreement between the Corporation and such rail carrier, or, in the absence of an applicable agreement, shall be determined by the Commission in a proceeding pursuant to subsection (a) of this section.".

HARLEY O. STAGGERS,
LIONEL VAN DEERLIN,
JAMES J. FLORIO,
JIM SANTINI
BARBARA A. MIKULSKI,
JOHN M. MURPHY,
ROBERT T. MATSUI,
JAMES T. BROYHILL,
EDWARD R. MADIGAN,
GARY A. LEE,
Managers on the Part of the House.

HOWARD W. CANNON,
RUSSELL B. LONG,
ADLAI E. STEVENSON,
BOB PACKWOOD,
NANCY KASSEBAUM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to amendments of the House to the bill (S. 2253) entitled an Act to provide for an extension of directed service on the Rock Island Railroad, to provide transaction assistance to the purchasers of portions of such railroad, and to provide arrangements for protection of the employees, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—ROCK ISLAND RAILROAD TRANSITION AND EMPLOYEE ASSISTANCE

SECTION 101—SHORT TITLE

Senate bill

Section 101 of the Senate bill sets forth the short title as the "Rock Island Railroad Transition Act."

House amendment

Section 201 of the House amendment provides that this title may be cited as the "Rock Island Railroad Employee Assistance Act."

Conference substitute

The Conference substitute adopts the following title: "Rock Island Transition and Employee Assistance Act."

SECTION 102—CONGRESSIONAL FINDINGS

Senate bill

Section 102 of this title of the Senate bill sets forth detailed Congressional findings and declares that the emergency measures set forth in the Act must be taken to avoid extensive disruptions in transportation service in the areas served by the Rock Island.

House amendment

Section 202 of the House bill sets forth specific Congressional findings and declares there is no other practicable means of obtaining funds to meet the necessary costs of such employee protection for Rock Island employees not hired by other rail carriers.

Conference substitute

The Conference substitute adopts various findings from the Senate bill and the House amendment and states that the continuation of service over Rock Island lines is dependent on adequate employee protection provisions covering Rock Island employees not hired by other railroads. It further states that premature cessation of service over lines which are the subject of pending purchase applications would result in harm to the shipping public and could imperil continuation of vital commuter service.

SECTION 103—DEFINITIONS

Senate bill

Section 103 of the Senate bill defines key terms used in this title.

House amendment

The definitions in the House amendment are substantially the same as the Senate bill, except that "employee" includes any employee of the Rock Island Railroad employed by the Kansas City Terminal Railway Company on October 1, 1979, in contrast to the Senate definition which contained a March 1, 1980 date in that definition.

Conference substitute

The conference committee defines employee as an individual employed by the Rock Island Railroad as of August 1, 1979, subject to specified limitations.

SECTION 104—SERVICE CONTINUATION

Senate bill

Section 104 of the Senate bill provided for 45 days directed service over Rock Island lines which were in operation on March 1, 1980. Funding of up to $25 million is to be made available under this section for Rock Island directed service and for directed service on the Milwaukee Railroad under another section of this title.

This section also provides that compensation for trackage rights, joint facilities and similar arrangements between other railroads and the trustee of the Rock Island which are in effect shall be continued during the temporary emergency operating authority, provided, however, that such continuation shall not affect the ultimate rights of other railroads nor prejudice the ultimate determination of any controversy or proceeding involving such trackage rights, joint facilities or other similar arrangements.

House amendment

Section 212 of the House amendment provides that the Commission shall order directed service over any line of the Rock Island where the Secretary certifies that an emergency exists which cannot be resolved by a grant of interim operating authority or other means, an application for purchase is pending and likely to be consummated, and grains or foods are ready to be shipped to market. The section authorizes up to $6 million in funding from Title V funds for this purpose.

Section 216 of the House amendment contains the same provision as the Senate bill with regard to continuation of terms of compensation for trackage rights, joint facilities and similar arrangements.

Conference substitute

The service continuation provision of the Conference substitute is similar to the House amendment. It provides for directed service under the following circumstances:

(1) A lack of rail service exists which cannot be resolved by a grant of interim operating authority over such line and grains or foods are ready to be shipped to market; or

(2) A lack of rail service exists which cannot be resolved by a grant of interim operating authority over such line and a rail carrier, shipper, state, or other interested party has expressed in writing an interest in purchasing, leasing, or rehabilitating the particular rail line or facility for purposes of providing rail services, and there is a reasonable expectation that such transaction shall be consummated.

However, the funding for directed service is increased to $15 million; this amount is intended to be used for directed service under section 17 of the Senate bill as well as directed Rock Island service under this section.

The provision for continuation of compensation adopted by the conferees is the same as the Senate bill.

SECTION 105—RAILROAD HIRING

Senate bill

Section 105 of the Senate bill is based on a similar provision in the Milwaukee Railroad Restructuring Act. It provides for priority hiring of Rock Island employees unless they are found less qualified than other applicants or unless such priority hiring would interfere with a carrier's equal employment obligations. Any employee who does not accept one of the first three employment offers in his craft loses his right to first hire under this section.

House amendment

The House amendment (section 204) is also patterned after the Milwaukee Railroad Restructuring Act. It specifically states that rights afforded to Rock Island employees under this section shall be co-equal to rights afforded Milwaukee employees. There is no provision for more than one employment offer. The House amendment also uses broader dates in defining employees: August 1, 1979 and January 1, 1981.

Conference substitute

To the extent there are differences between the two railroad hiring provisions, the Conference Committee generally adopts the language of the House amendment. The House language is followed because of the conferees view that the "three-offer" provision would be difficult to implement. In general, this section is intended to insure that eligible Rock Island employees will be hired without delay or discrimination. The successful implementation of this provision depends upon the full cooperation of other carriers. Neither this provision nor section 8 of the Milwaukee Railroad Restructuring Act should be construed to materially impair or interfere with a carrier's normal operations.

SECTION 106—EMPLOYEE PROTECTION AGREEMENTS

Senate bill

This section of the Senate bill is also patterned after the Milwaukee Railroad Restructuring Act. Under paragraph (a), labor organizations and the Rock Island trustee would have 10 days to reach an agreement on labor protection for employees adversely affected by the Rock Island liquidation and transfers of its lines. If the parties cannot agree within 10 days, the matter would be submitted to the Commission, pursuant to paragraph (b), which would impose a "fair and equitable agreement" no later than 30 days after the enactment of this bill unless the parties reach an agreement in the interim. The term "fair and equitable" is to be consistent with the use of that term in the Milwaukee Railroad Restructuring Act. Under paragraph (c), such a Commission order could be appealed within 5 days to the appropriate Circuit Court of Appeals, which would make a decision within 60 days. In no event, however, could the Commission's order be stayed.

Paragraph (b)(2) makes it clear that any agreement reached pursuant to this section must be within the financial limitations of $50 million set forth in another section of the Senate bill.

House amendment

Section 205 of the House amendment sets forth procedures generally similar to the Senate bill with regard to entering into an employee protection agreement. Unlike the Senate bill, however, it provides for the assistance of the National Mediation Board, and the section provides for a financial limitation of $75 million. Subsection (c) provides that the Rock Island reorganization court shall immediately order the Rock Island Trustee to implement the order. Subsection (d) provides that the order of the ICC and the reorganization court order implementing the ICC order may not be stayed and any appeal from such orders shall be filed within 5 days after the reorganization court implementation order. The appropriate court shall finally determine such appeals within 60 days and such determination shall not be reviewed in any other court. Subsections (e) and (f) provide that claims for benefits under an employee protection arrangement shall be filed with the Railroad Retirement Board and that the benefits shall be administrative expenses from the assets of the Rock Island Railroad or with a loan guaranteed under section 211. Subsection (f) is a technical amendment to the Railroad Retirement Act of 1974.

Conference substitute

The Conference substitute is substantially the same as the House amendment. This section mandates early implementation of employee protection to avoid disruption of rail service and undue displacement of employees. The conferees intend that if no agreement is reached within the initial 10-day period and the ICC prescribes an agreement, the bankruptcy court will take whatever actions are appropriate and necessary for the immediate implementation of such agreement, so that payments to Rock Island employees will be made forthwith, notwithstanding any ensuing litigation concerning such payments. The conferees believe that legislation is essential to provide for an orderly transition.

SECTION 107—EMPLOYMENT OF ROCK ISLAND RAILROAD EMPLOYEES

Senate bill

Section 107 of the Senate bill requires the Board to prepare lists of furloughed employees as an aid in implementing priority hiring of such employees by other railroads.

House amendment

Section 206 of the House amendment is substantially the same as the Senate bill.

Conference substitute

The conferees agree to the Senate language.

SECTION 108—ELECTION

Senate bill

The Senate bill specifies that Rock Island employees can elect to receive assistance under this bill or pursue their other remedies. Paragraph (b) provides that such election must be made by April 1, 1981. Paragraph (a) clarifies that any employee who elects and receives assistance under the provisions of this bill shall be deemed to waive employee protection benefits otherwise available under the Bankruptcy Act Subchapter IV of Title 49, United States Code, or other applicable agreement. Paragraph (c) further clarifies that elections under this act shall not be deemed to determine or otherwise affect the status of liability for claims of employee protection which might have existed in the absence of this act.

House amendment

Section 208 of the House amendment provides that employees who receive assistance under an employee protection arrangement entered into pursuant to the provisions of this bill or any new career training assistance shall be deemed to waive all other employee protection. In addition, Section 209 provides that employees shall not be eligible for benefits under this legislation, other than moving expenses while (1) such employee is employed by a temporary service operator over the Rock Island lines or (2) after an employee has been offered employment with a permanent acquiring carrier in the employee's craft and for which the employee is qualified. The moving expenses are exempted from the provision to encourage employees to exercise their right-of-first hire with other carriers through the recoupment of expenses incurred in moving to other carriers.

Conference substitute

The Conference substitute generally follows Sections 208 and 209 of the House amendment, but it adopts the Senate language in paragraph (b) with regard to timing of the required election and paragraph (c) to the effect that, with regard to employees who elect employee protection benefits otherwise available, nothing in this title shall be construed to affect the status or liability for claims of employees protection which might have existed in the absence of this legislation.

SECTION 109—AUTHORIZATION OF APPROPRIATIONS

Senate bill

The authorization provision of section 109 of the Senate bill relates solely to administrative expenses of the Railroad Retirement Board. For this purpose, $750,000 is authorized.

House amendment

The House amendment authorizes an additional $1 million to be appropriated for the Railroad Retirement Board to carry out its duties under the Milwaukee Railroad Restructuring Act and this Act. The House amendment further authorizes $1.5 million for new career training assistance for Rock Island employees.

Conference substitute

The Conferees adopt the authorization of appropriations set forth in the House amendment. Additional information obtained by the Conferees has made it clear that the Railroad Retirement Board will need an additional $1 million for administrative expenses to adequately perform its functions. Since the Conference substitute adopts the provision for a new career training assistance program, an authorization is also necessary for that purpose.

SECTION 110—OBLIGATION GUARANTEES

Senate bill

Section 110 of the Senate bill governs funding of labor protection agreements. Paragraph (a) provides that the Department of Transportation shall guarantee obligations of the Rock Island under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act) but without regard to the usual requirements applicable to such guarantees. The obligations guaranteed are not to exceed $50 million; this amount governs Government liability pursuant to this act and the total labor protection provided under agreements established under this act.

Paragraph (b) of this section provides that $30 million of this $50 million is to be treated as an administrative expense of the Rock Island estate.

House amendment

The language of the House amendment is similar to the Senate bill with two important differences: obligation guarantees are not to exceed $75 million and the entire amount of any obligations guaranteed under this section shall be treated as an expense of administration.

Conference substitute

The Senate recedes.

SECTION 111—EXPEDITED PROCEEDINGS

Senate bill

Under section 111 of the Senate bill, proceedings involving the Rock Island are to be given preference by the Commission over all other proceedings. Any application for sale, transfer or lease to solvent carriers filed after January 1, 1980, shall be decided within 100 days or such shorter time as the Bankruptcy Court may mandate pursuant to the Milwaukee Railroad Restructuring Act.

House amendment

Section 215 of the House amendment provides that matters concerning the Rock Island Railroad shall take precedence over other Commission proceedings, but specific deadlines are not provided.

Conference substitute

The House recedes.

SECTION 112—TRANSACTION ASSISTANCE

Senate bill

Under section 112 of the Senate bill, funds previously authorized under section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 are to be made available by the Secretary of Transportation to encourage purchase of Rock Island lines by noncarrier entities, including associations of railway, labor employee coalitions and shippers. To the extent applications are filed, the Secretary is directed to purchase no less than $25 million in preference shares, bonds, or trustee certificates.

House amendment

No similar provision.

Conference substitute

The conference substitute substantially adopts the Senate language. A reference is added to "funds available on May 1, 1980". The purpose of this reference is to insure that the Secretary retains funds necessary to fully implement this provision. In addition, the definition "noncarrier entities" is modified to specifically include "States or state organizations" as qualifying entities. The language is also modified to include "lease or rehabilitation" as well as purchase of the considered lines.

With regard to the Milwaukee Railroad, a provision was added to include up to $18 million transaction assistance to facilitate the purchase of properties of that carrier. The conferees recognize the problems faced by shippers on the Milwaukee Railroad, particularly the western portion, and intend that preference be given to applications involving purchase of western lines to the extent meritorious applications are filed.

MISCELLANEOUS PROVISIONS

Senate bill

Section 113

This section provides for the nonapplicability of the National Environmental Policy Act and the Energy Policy and Conservation Act of 1975 to transactions carried out under this Act.

Section 114

The Railroad Retirement Board is granted necessary authority to carry out its duties under the Act.

Section 115

This section requires the Board to publish and make available a document describing the rights of employees under this legislation.

House amendment

Sections 218, 219 and 220 of the House amendment contain provisions which are substantially the same as sections 114–116 of the Senate bill.

Conference substitute

The Conference substitute follows the Senate bill.

SECTION 116—AMENDMENTS TO MILWAUKEE RAILROAD RESTRUCTURING ACT

Senate bill

Section 117 of the Senate bill provides a limited exception to the prohibition against further directed service in the Milwaukee Railroad Restructuring Act. It directs 30 days of service under section 11125 of title 49, United States Code, limited to lines where railroads, States and local governments or other entities have entered into agreements with the trustee of the Milwaukee Railroad for acquisition or where legislation authorizing such acquisition is currently pending before a State legislature. The section also authorizes the Commission to direct service by the Milwaukee itself so long as no profit factor is included.

House amendment

The House amendment does not contain a similar provision.

Conference substitute

The Conference substitute adopts the Senate provision for limited directed service on the Milwaukee Railroad, modified to apply only in instances where legislation has been enacted prior to the date of this legislation to provide for a State to tender a bonafide offer for acquisition of such rail lines or line segments. This provision is intended by the Conferees to be of limited application, and the cost should be minimal. The limited nature of the directed service authorization is an important consideration to the Conferees, in view of the fact that a substantial amount of directed service has previously been provided under the Milwaukee legislation.

CONTINUED SERVICE ON LINES SERVICED BY THE MILWAUKEE RAILROAD

Senate bill

Section 118 of the Senate bill provided for 30 days of directed service on the Milwaukee Railroad over lines included in the reorganization for which firm initial bids of purchase have been made prior to date of enactment, except where alternative operators are operating such lines under interim service orders or are willing to do so at no cost to the United States. The level of service specified was that which existed on October 15, 1979.

House amendment

No similar provision.

Conference substitute

The Senate recedes. This provision is no longer necessary in view of the broadening of the transaction assistance provision to include the Milwaukee as discussed above.

SECTION 117—RAIL TECHNOLOGICAL IMPROVEMENTS

Senate bill

Section 119 of the Senate bill fosters rail technological improvements by giving the Federal Railroad Administration discretionary authority to grant exemptions from the Safety Appliances Acts' mandatory requirements when those requirements preclude the development or implementation of new rail technology. A similar provision was originally reported out as a part of S. 1946, the Railroad Transportation Policy Act of 1976.

House amendment

No similar provision.

Conference substitute

The Conference substitute follows the Senate bill, with a modification to indicate that the authority granted the Federal Railroad Administration in this section must be exercised after a hearing, absent an expression of agreement between national rail labor representatives and the developers or operators of the new equipment or technology.

SECTION 118—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973 (CONRAIL EMPLOYEE STOCK OWNERSHIP PLAN)

Senate bill

Section 119 of the Senate bill is intended to aid in implementing an employee stock ownership plan for Conrail. The United States Railway Association Amendments Act of 1978 (the 1978 Act) amended the Regional Rail Reorganization Act of 1973 (the Rail Act) to provide that the United States Railway Association (USRA) shall not invest the last $345 million of the authorized $3.3 billion of Federal investment in Consolidated Rail Corporation (Conrail) until Conrail has in effect an employee stock ownership plan (ESOP). The 1978 Act specified certain basic terms and conditions required to be included in the ESOP, and instructed Conrail to recommend to the Congress what further statutory provisions would be necessary to accomplish the desired exculpation and indemnification of Conrail and its personnel with regard to the implementation and operation of the ESOP.

Defeasance requirement

Among the terms specified by the 1978 Act are the requirements that the securities contributed by Conrail to the ESOP be allocated immediately to the accounts of the participants in the ESOP and that the rights of those participants to such securities be fully vested upon allocation. The 1978 Act also requires that each participant's right to such securities must be subject to "defeasance" after ten years if Conrail has not attained

for two consecutive quarters positive net income and a freight labor cost to freight revenue ratio equal to the average such ratio for all Class I Railroads in 1977 (the financial benchmarks).

The defeasance requirement was added to the 1978 Act in order to link the employees' rights to Conrail stock to productivity increases. It is the Committee's belief that the ESOP which is being established as a result of the negotiations among Conrail, USRA and RLEA, and to which Conrail plans to contribute redeemable preferred stock issued by Conrail Equity Corporation (CEC), a new subsidiary of Conrail, avoids the need for special legislation along these lines. If the financial benchmarks, which necessarily depend upon increased productivity, are not met, the CEC stock in the ESOP will have little or no value; the Committee believes that this will accomplish the desired defeasance and that this will be consistent with applicable provisions of ERISA and the Internal Revenue Code.

The Committee further understands that Conrail intends that the ESOP will be tax qualified. This qualified status, the Committee believes, is entirely consistent with and furthers the basic purposes of Section 216 of the Rail Act, as amended by the 1978 Act.

Indemnification and Exemption From Liability

The Act would relieve Conrail and the other persons who will be involved in the implementation and operation of the ESOP from fiduciary and other responsibilities for the ESOP structure itself or for the transactions that are basic to the ESOP's purpose. However, Conrail and such other persons would not be exempt from liability or indemnified with respect to the ordinary duties of plan administration which are common to all ESOPs.

This exculpation would cover operational and related business decisions made by Conrail, whether or not approved or consented to by USRA, which could adversely affect Conrail's ability in a particular quarter to attain the financial benchmarks for the ESOP. It would also cover all actions (or lack of action) in connection with the ESOP taken with the consent or approval of USRA except those associated with the ordinary duties of plan administration. These ordinary duties are specified in the legislation. Further, the designated ESOP fiduciaries would not be relieved of responsibility for the management of plan assets in the normal course, other than as to those stock investments specifically contemplated by the ESOP or otherwise outside their discretion.

The Bill would indemnify Conrail and these persons from lawsuits and all other claims that might be made or brought against them in connection with the basic structure of the ESOP, with issuances or transfers of securities contemplated by the ESOP, and with dispositions of ESOP assets made on account of a Conrail reorganization or restructuring. Conrail and such persons also would be protected from lawsuits and claims alleging that the ESOP, or any of its provisions, violates ERISA or other laws. While there would be no requirement for consent or approval by USRA in order for the indemnification provisions to apply, the application of that provision is subject to a good faith standard.

Interstate Commerce Commission Approval

The Bill also would make it clear that the issuances and transfers pursuant to the terms of the ESOP of the securities involved, including CEC's securities, are deemed authorized and approved as issuances under the Interstate Commerce Act without the necessity for Interstate Commerce Commission action. In view of the regulation and oversight of Conrail and the ESOP by—among others—USRA, the IRS and the Department of Labor, the Committee is of the view that additional regulation and oversight by the Interstate Commerce Commission would be unnecessary. The Committee also notes that other issuances of Conrail securities are deemed approved by the Interstate Commerce Commission under Section 601(a)(2) of the Rail Act.

One additional result of deeming the issuances and transfers of the securities involved to be authorized and approved under the Interstate Commerce Act is that such issuances and transfers (including Conrail's transfers of CEC preferred stock to the ESOP, transfers in connection with the redemption of such securities and the account distributions by the ESOP to participants or beneficiaries) will not be subject to the approval, registration or similar requirements under the public utility and Blue Sky laws of the states and the District of Columbia.

Federal Securities Laws

The Committee is not recommending any legislation which would exempt the ESOP from the application of the various Federal securities laws since these laws will not apply until the participants in the ESOP actually receive securities. The Committee believes that the unique nature of the Conrail ESOP and the circumstances of its implementation should not cause Conrail or the ESOP to become subject to Federal securities laws until the time at which the requirements of such laws would serve the purpose for which they were designed. That time would be immediately after ESOP distributions are made to participants and their beneficiaries.

House amendment

No similar provision.

Conference substitute

The House recedes. The Senate language is adopted with minor technical changes.

SECTION 119—NEW CAREER TRAINING ASSISTANCE

Senate bill

No similar provision.

House amendment

Section 207 of the House amendment provides that employees who take a separation allowance are eligible for up to $3,000 in retraining expenses. Other Federal education benefits, such as veterans' benefits, for which the employee is eligible, must first be exhausted. This is similar to the career training assistance program established for Milwaukee employees under the Milwaukee Railroad Restructuring Act.

Conference substitute

The Conference substitute adopts the House provision, with a change in the definition of "qualified institution" to include State accredited institutions which have been in existence for two years. A similar change is made in the Milwaukee Railroad Restructuring Act.

SECTION 120—DIRECTED SERVICE—COMMUTER LINES

Senate bill

The Senate bill does not contain a special provision relating to commuter service.

House amendment

Section 213 of the House amendment provides that the Commission shall order directed service for two years after enactment over any commuter line of the Rock Island Railroad in operation on March 1, 1980, if the directed service carrier agrees to provide such service without payment. The section also specifies that commuter lines of the Rock Island Railroad shall not be abandoned nor discontinued during the period of directed service.

Conference substitute

The Conference substitute adopts the House provision with changes to indicate that the applicability of the section is limited to passenger service and the Rock Island is to receive such compensation as the Commission finds to be reasonable if the parties cannot reach agreement or compensation for the use of Rock Island properties and facilities. In determining compensation under this section it is the conferees' desire that the Commission follow standards similar to those used in determining compensation to be paid to the trustee by interim operators in previous compensation determinations.

SECTION 121—TEMPORARY RAIL BANKING

Senate bill

No similar provision.

House amendment

Section 214 of the House amendment provides that for 45 days after enactment no rail line or facility of the Rock Island Railroad, which has been approved for abandonment, may be downgraded or scrapped without the approval of the Secretary. The Secretary may grant the application of the Rock Island unless an interest in acquiring a particular line is expressed in writing and there is a reasonable expectation the purchase will be consummated.

Conference substitute

The Conference substitute follows the language of the House provision, except that the expression of interest required to prevent disposition may be in leasing or rehabilitation as well as purchase.

SECTION 122—TEMPORARY OPERATING APPROVAL

Senate bill

No specific provision.

House amendment

Section 217 of the House amendment clarifies the authority of the ICC to authorize temporary operating authority on the Rock Island and Milwaukee Railroads until an application for purchase or lease is filed with the ICC, at which time the applicant may seek temporary operating authority on under sections 5 and 17 of the Milwaukee Railroad Restructuring Act. On March 20, 1980, the United States Court of Appeals for the Seventh Circuit overturned the Interstate Commerce Commission's grant of emergency temporary authority under section 11123 of Title 49 to the St. Louis-Southwestern Railroad Co. to operate over the lines of the Rock Island. The opinion of the Court makes the clarification provided by this section even more necessary. The provision is intended to enable the ICC to insure that transportation services will continue by requiring a railroad to make its tracks and facilities available to another rail carrier or organization formed for the purpose of providing rail service on the Rock Island and Milwaukee Railroads. The Commission's authority under this section should be construed as plenary, not limited to particular lines, facilities or services. Section 217(b) provides that the authority under (a) is applicable to all transactions pending at the Commission for approval on the effective date of the Act and thereafter.

Conference substitute

The Conference substitute adopts the House provision. In so doing, however, the Conferees wish to make it clear that paragraph (b) is not intended to change existing Commission policy nor to require newly formed carriers to assume pre-existing collective bargaining obligations or union representation.

SECTION 123—DEFINITION OF RESTRUCTURED MILWAUKEE RAILROAD

Senate bill

No provision.

House amendment

Section 221 of the House amendment is a technical change which redefines the term "restructured Milwaukee Railroad" for the

purposes of the Milwaukee Railroad Restructuring Act.

Conference substitute

The Conference substitute adopts the House provision.

SECTION 124—SAVINGS PROVISION

Senate bill

Section 124 of the Senate bill provides that, should any provision in the Act or the application of any provision to a person or circumstances be held invalid, the remainder of the Act shall not be affected.

House amendment

The House amendment contains a similar savings provision in section 221.

Conference substitute

The conference substitute follows the Senate language.

TITLE II—PASSENGER RAILROAD REBUILDING ACT OF 1980

SECTION 201—SHORT TITLE

Senate bill

The Senate bill contained the short title of the "Northeast Corridor Completion Act".

House amendment

The House bill contained the short title of the "Passenger Railroad Rebuilding Act of 1980".

Conference substitute

The Senate recedes.

FINDINGS AND PURPOSE

Senate bill

The Senate bill contained the following findings: that the Project has taken longer and cost more than expected; that the Project should have definite limits with respect to finding and time; that after completion, any future corridor work should be part of Amtrak's regular budget; and that Amtrak should recover all operating costs within five years and also recover future capital expenditures.

House amendment

The House bill included extensive findings which may be summarized as: passenger rail service is needed to conserve increasingly scarce fossil fuel resources; the Northeast Corridor has demonstrated the potential for doing so; federal assistance is needed to develop modern and efficient high-speed intercity rail passenger service; a national rail corridors program is in the public interest; and Amtrak needs new equipment. The purpose of the House bill was to complete the Northeast Corridor and to provide for the development of high-speed intercity rail passenger service in corridors throughout the United States.

Conference substitute

The conferees agree that the final legislation should not include any statement of findings and purpose.

SECTION 202—RAIL PASSENGER CORRIDOR SERVICE

Senate bill

The Senate bill amended the goals of the Railroad Revitalization and Regulatory Reform Act to stress that, in the event the goals are not achieved with the additional authorization provided, the funding limitations would nevertheless prevail; terminated the Northeast Corridor Improvement Project at the end of fiscal year 1985; and required the General Accounting Office to study the feasibility of new corridor service.

House amendment

The House amendment completed the Northeast Corridor Improvement Project five years after enactment.

Conference substitute

The conferees agree that the Northeast Corridor Improvement Project will be terminated at the end of fiscal year 1985, and that, in the event of any conflicts between goals and funding authorized, the funding limits will prevail. The study by the General Accounting Office has been deleted.

SECTION 203—SEPARATION OF PASSENGER AND FREIGHT TRAFFIC

Senate bill

The Senate bill required the Secretary of Transportation to develop plans for off-corridor routings of freight traffic and to undertake a demonstration project, if agreements can be reached with involved carriers, to reroute freight traffic around the Corridor. The provision also added the elimination of congestion at the critical bottleneck in Baltimore to the goals of the 4–R Act.

House amendment

The House bill contained identical language with respect to the relief of congestion, but no provision with respect to the diversion of freight.

Conference substitute

The conferees agree to include the Senate provision on the diversion of freight along with the added goal of eliminating congestion in Baltimore.

SECTION 204—AUTHORIZATION OF APPROPRIATIONS

Senate bill

The Senate bill authorized $750 million to complete the Northeast Corridor Improvement Project. Of this amount, $37 million would have been set aside for the relief of congestion in Baltimore and the diversion of freight off the Corridor. In addition, the Railroad Revitalization and Regulatory Reform Act would have been amended by adding three technical amendments which (1) clarify the power of the Secretary to acquire real property for the Northeast Corridor Improvement Project, (2) permit the Secretary to enter reimbursable agreements prior to the local share being placed into escrow, and (3) permit the Secretary to turn over excess equipment to Amtrak upon completion of the project.

House substitute

The House bill authorized $750 million to complete the project, of which $28 million would have been set aside for the relief of congestion. In addition, the House would have removed a provision from the 4–R Act which states that if all funding authorized is not needed on the main line of the Corridor, it should be used to improve service on certain designated spur lines. Finally, the House bill contained the three technical amendments in virtually the same form as the Senate bill.

Conference substitute

The conferees agree that $750 million should be authorized for the completion of the Northeast Corridor Improvement Project, of which $37 million would be set aside for the diversion of freight and the elimination of congestion as in the Senate bill. The conferees have also incorporated the House provisions removing the ability to spend residual funds on spur line service and the three technical amendments to the 4–R Act in the form contained in the House bill.

SECTION 205—MANAGEMENT GOAL

Senate bill

The Senate bill established a new management goal for Amtrak: that Amtrak recover 60% of its operating costs in the Northeast Corridor in fiscal year 1981, 75% for fiscal years 1982 through 1985, and 100% in later years. Also, beginning in 1988, the goal would have included recovering the annualized costs of any capital investment undertaken after fiscal year 1985. Amtrak would have been required to submit annual reports on its progress in meeting this goal.

House amendment

The House bill set the goal for Amtrak of recovering 100% of its operating costs in the Corridor five years after enactment. A one-time report on the progress toward meeting this goal would have been required five years after enactment.

Conference substitute

The conferees agree that the following goals should be established for Amtrak: Amtrak should recover 55% of annual operating costs in fiscal year 1981; 75% in fiscal years 1982 through 1986; and 100% thereafter. Rather than separate reports, the conferees agree that Amtrak should include a report on this matter in its regular annual report.

SECTION 206—TRANSFER OF AUTHORITY

Senate bill

The Senate bill transferred all authority from the Secretary to the Corporation on October 1, 1985 when the project was terminated.

House amendment

The House bill transferred authority from the Secretary to the Corporation five years after the date of enactment and, in addition, directed the Secretary and the Corporation to agree within 90 days after enactment, on the reallocation to the Corporation of authority and responsibility with respect to the contracting of construction solely related to track improvements in connection with the Northeast Corridor Improvement Project.

Conference substitute

The conferees agree that the responsibility for the contracting of construction related to track improvement should be transferred to the Corporation and adopt this portion of the House provision. Consistent with the completion of the program at the end of fiscal year 1985, remaining authority would be transferred from the Secretary to the Corporation on October 1, 1985, as provided in the Senate bill, rather than five years after date of enactment as provided in the House bill.

SECTION 207—WORKING CAPITAL FUND

Senate bill

The Senate bill incorporated a technical amendment suggested by the Administration, which amended the Department of Transportation Act by establishing a "working capital fund" for the Department's Transportation Systems Center in lieu of the present "consolidated working fund".

House amendment

No provision.

Conference substitute

The House recedes.

SECTION 208—AMENDMENT TO RAIL PASSENGER SERVICE ACT

Senate bill

This section eliminated the special treatment now provided for Amtrak's capital funds by repealing section 601(b)(3) of the Rail Passenger Service Act of 1970 and would thereby place Amtrak's capital grants program on a par with other government capital grant programs.

House amendment

No provision.

Conference substitute

The House recedes. The conferees agree to rescind paragraph 601(b)(3) of the Rail Passenger Service Act as amended and note that this will increase Amtrak's interest expense by $14 million in FY 1981, which is paid from appropriations authorized for Amtrak's operating expenses.

SECTION 209—PRIORITIES FOR IMPROVEMENTS

Senate bill

This section amended section 703 of the Railroad Revitalization and Regulatory Reform Act by listing the following priorities

for the selection and scheduling of specific projects undertaken during the course of the overall Northeast Corridor Improvement Project: safety; benefits to the greatest number of riders; reliability of intercity passenger service; achievement of the trip-time goals; reducing future maintenance levels; reliability of commuter freight operations; and concentration on activities which will provide the most immediate benefits. The intent of this amendment was to make it clear that speed-sensitive projects are not to be preferred to projects which may improve reliability or passenger comfort.

House amendment

No provision.

Conference substitute

The House recedes.

SECTION 210—AUTHORITY OF THE SECRETARY

Senate bill

No provision.

House amendment

The House bill amended the 4–R Act to require the Secretary of Transportation to consult with the Secretary of Housing and Urban Development, the Secretary of Commerce, and other appropriate officials to use federal funds to assist public and private redevelopment in the vicinity of urban rail stations on the Northeast Corridor.

Conference substitute

The conferees agree that the House language, with one minor clarifying change, should be adopted.

SECTION 211—DEMONSTRATION SERVICE

Senate bill

No provision.

House amendment

The House bill amended the Rail Passenger Service Act to require the expenditure of $500,000 from Amtrak's fiscal year 1980 capital authorization for the purchase of a self-propelled single car capable of carrying 50–60 passengers to demonstrate the feasibility of developing feeder service to basic system and State-subsidized service.

Conference substitute

The conferees agree to the House provision except that the Corporation would be given discretionary authority to acquire the equipment rather than the acquisition being required, and also agree that the authorization should be for fiscal year 1981 rather than 1980.

SECTION 212—RAIL PASSENGER CORRIDORS

Senate bill

The Senate bill required the Comptroller General of the United States to undertake an evaluation of the potential costs and benefits of developing rail passenger service in other corridors.

House amendment

The House bill directed the Secretary of Transportation in consultation with the Corporation to develop a method for evaluating corridors and submit the evaluation method to Congress; required the Secretary to include 13 listed rail corridors plus any others that demonstrate as great potential for attracting riders, to reduce energy consumption and the capability to provide cost-effective rail passenger service in his evaluation; required the Corporation upon receipt of the Secretary's evaluation and ranking of corridors, to begin the development of design and engineering plans; required the Corporation to submit to Congress design and engineering plans on corridors which were included in the ranking; and authorized appropriations to the Secretary for the benefit of the Corporation, out of funds in the Windfall Profits Tax account, of $55 million for the development of design and engineering plans and $50 million for the acquisition of equipment. Additionally, out of the Windfall profits tax fund, $850 million was authorized to be available beginning with the fiscal year ending Sept. 30, 1982 for the implementation of corridor improvement projects only upon the enactment of further legislation specifically authorizing those projects.

Conference substitute

The conferees agree to provide funds for an evaluation of the feasibility of specific corridors including engineering and design studies. Should the final evaluation of any corridor show that the institution of passenger service would be justified, the conferees expect that the Congress would authorize and appropriate the funds necessary to undertake construction. The conferees agree to add a new Title X to the Rail Passenger Service Act following the format of the House amendment as follows:

SECTION 1001—DEVELOPMENT OF THE EVALUATION METHOD

The Secretary of Transportation in consultation with the Corporation, shall develop a method for evaluating rail passenger corridors. The conferees also expect that the Secretary will consult with the Comptroller General during the development of the evaluation method and during subsequent evaluations. The method shall be designed to determine which corridors have the greatest potential for attracting passengers, have the greatest potential for reducing energy consumption, and are capable of providing cost effective rail passenger service. The Secretary must consider several factors in the evaluation method.

The Secretary is required to determine which corridors have under the evaluation method the greatest potential to attract riders, reduce energy consumption and provide cost effective rail passenger service. Based upon a preliminary evaluation the Secretary shall establish a priority ranking of such corridors. The Secretary's determination and ranking shall include the corridor listed below. The Secretary may include the extension of the San Jose-Sacramento corridor to Reno, Nevada, the extension of the San Diego-Los Angeles corridor to Oxnard, and any other that demonstrates as great a potential as the thirteen listed corridors:

(1) The Cincinnati-Chicago Corridor (between Cincinnati, Ohio and Chicago, Ill.).

(2) The Cleveland-Chicago Corridor (between Cleveland, Ohio, and Chicago, Ill.).

(3) The Detroit-Chicago Corridor (between Detroit, Michigan, and Chicago, Ill.).

(4) The Los Angeles-Las Vegas Corridor (between Los Angeles, Calif., and Las Vegas, Nev.).

(5) The Los Angeles-San Diego Corridor (between Los Angeles, Calif., and San Diego, Calif.).

(6) The Miami-Jacksonville Corridor (between Miami, Florida, and Jacksonville, Fla.).

(7) The New York-Buffalo Corridor (between New York, New York, and Buffalo, N.Y.).

(8) The Saint Louis-Chicago Corridor (between Saint Louis, Missouri, and Chicago, Ill.).

(9) The San Jose-Sacramento Corridor (between San Jose, Calif., and Sacramento, Calif.).

(10) The Seattle-Portland Corridor (between Seattle, Wash., and Portland Oreg.).

(11) The Texas Corridor (between Dallas-Fort Worth, San Antonio, and Houston, Tex.).

(12) The Twin Cities-Chicago Corridor (between Minneapolis-Saint Paul, Minn., and Chicago, Ill.).

(13) The Washington-Richmond Corridor (between Washington, District of Columbia, and Richmond, Va.).

The Secretary determined that the thirteen corridors were those with the greatest potential; however, the conferees expect that the Secretary will review the corridors listed in the 1977 report on corridors in response to the 4–R Act to ensure that none with potential as great as these thirteen were overlooked in the February 1980, Amtrak/DOT Report.

SECTION 1082—DESIGN AND ENGINEERING

Upon completion of the ranking of the corridors, the Corporation shall develop a design and engineering plan for each corridor. Such plan shall include information to the extent necessary to provide accurate information on capital expenditures for improvements and equipment, operating cost projections, running times, and other information which the Corporation, in consultation with the Secretary, determines as necessary to complete an accurate assessment of the anticipated costs and benefits of instituting new service on such corridors. Such a plan shall not include the preparation of final design and engineering plans, such as blueprints, which would prepare a corridor for the commencement of construction, except in the case of Los Angeles to San Diego. The conferees believe that the Los Angeles to San Diego corridor has received substantial attention and analysis, and the preparation of final design and engineering work is appropriate. To the extent of available funds after a plan is prepared for other corridors, the Corporation may develop final design and engineering plans for the Los Angeles to San Diego corridor.

The Corporation is directed to develop the design and engineering information cooperatively with the rail carriers involved and, in the event the rail carriers are unwilling to cooperate, the Corporation may apply to the Secretary for assistance in obtaining such cooperation.

SECTION 1003—FINAL CORRIDOR EVALUATION

The Secretary and the Corporation shall jointly prepare a final report on the corridors ranked by the Secretary and submit a report to the Congress. The report shall include for each corridor ridership projections, operating cost and revenue projections, and projected capital expenditures for improvements. The projected capital expenditures shall be those determined by the Corporation under section 1002. The joint report shall be submitted by February 15, 1981. If the Secretary and the Corporation believe that further information is required after February 15, 1981, they shall submit a supplemental report with any additional necessary information.

SECTION 1004—EQUIPMENT ACQUISITION

The Corporation is directed, to the extent funds are available, to acquire equipment for the purposes of providing service in rail passenger corridors. The conferees believe that such equipment can be utilized by the Corporation and therefore should be acquired if Corridor service is not implemented. Accordingly, the conferees expect that such equipment can be utilized on the entire Amtrak system.

SECTION 1005—PRIVATE SECTOR DEVELOPMENT

The Secretary is directed to encourage the private sector development of potential rail passenger corridors, including the corridor between Atlantic City, New Jersey and Philadelphia, Pennsylvania. This section, as agreed upon by the conferees, is identical to the provision contained in the House amendment.

SECTION 1006—SPEED RESTRICTIONS

This section requires the Corporation to identify state or local governmentally imposed speed restrictions on Amtrak trains that impede the development of high-speed intercity rail passenger service and to consult with such state or local governments to determine whether such speed restrictions might be modified or eliminated without jeopardizing public safety.

SECTION 1007—SERVICE BETWEEN CORRIDORS

The House bill provided that, if the Corporation determines that improvements in rail service between corridors would result in an increase in overall ridership, the Corporation would have been directed to undertake such improvements as to maximize ridership on the route and in connecting corridors. The conferees agree that if the Corporation determines that improvements on a route between corridors would be justified by an increase in ridership, the Corporation should undertake such service as it considers appropriate to increase (rather than maximize) ridership.

SECTION 1008—AUTHORIZATION OF APPROPRIATIONS

The conferees agree that $38 million should be authorized for fiscal year 1981 for the evaluation of corridors and for the design and engineering work undertaken by Amtrak in connection with the evaluation of corridors, and that $25 million in fiscal year 1982 should be authorized for the acquisition of equipment under section 1004. Finally, the conferees agree to authorize out of funds available under section 704(a) (1) of the Railroad Revitalization and Regulatory Reform Act, funds not to exceed $200,000 for fiscal year 1981 for private sector development under section 1005 of this Act. Conferees do not adopt the reference in the House bill to the reservation of $850 million in the Windfall Profits Tax for future construction. However, conferees believe that funds from the Windfall Profits Tax account should be considered as one possible source of funds for the construction of any corridors Congress may authorize on the basis of the final corridor evaluation.

SECTION 213—AMTRAK INTERCITY SERVICE

Senate bill

No provision.

House amendment

The House bill would have extended the date from April 1, 1981 to October 1, 1981 for the termination of certain commuter rail passenger service.

Conference substitute

The Senate recedes.

SECTION 214—CONRAIL EMPLOYEE PROTECTION

Senate bill

No provision.

House amendment

The House bill would have extended the effective date from March 1, 1980 until 45 days after enactment of a provision in the fiscal year 1980 DOT appropriations law which would prohibit the United States Railway Association from continuing federal payments to Conrail if Conrail makes payments as required by title V of the Regional Rail Reorganization Act of 1973, which establishes an employee protection program for employees adversely affected by the creation of the Consolidated Railroad Corporation.

Conference substitute

The Senate recedes.

SECTION 215—RELOCATION OF FACILITIES

Senate bill

No provision.

House amendment

The Secretary of Transportation would be required to delay action, study the consequences of, and report to the Congress on the relocation of a maintenance-of-way facility at Bristol, Pennsylvania.

Conference substitute

The Senate recedes.

SECTION 216—OPERATION OF ADDITIONAL TRAINS

Senate bill

No provision.

House amendment

The House bill would have amended the Rail Passenger Services Act to require the Secretary of Transportation, upon notification by the corporation that the corporation was unable to reach voluntary agreements with a rail carrier for the operation of additional passenger trains over the carrier's lines, to order the carrier to permit such operations within 60 days. The schedules for such operation for the additional trains would be at the fastest legally permissive running times.

Conference substitute

The conferees agree to the House provision with several changes to indicate that the Secretary of Transportation may order such cooperation from a rail line, rather than the Secretary's obligation being mandatory. Further, such order could be issued only after a hearing on the record; such hearing would be required to include a consideration of whether or not such an order would unduly impair freight operations of the rail carrier involved; and, the burden of proof would be on the railroad to prove that its freight operations would be unduly impaired by the requested operation. If the Secretary decides not to hold a hearing, the Secretary shall, within 30 days after the receipt of an application from the Corporation, publish in the Federal Register his reasons for not holding a hearing.

The Congress is concerned that in the past Amtrak's efforts to add or modify services have involved protracted arbitration proceedings and have often prompted requests by the railroads for inordinate capital improvements, which is paid from appropriations authorized for Amtrak's operating expenses. It is important that Amtrak have available to it an expedited procedure for making necessary modifications or additions to its operations. The conferees have agreed that, rather than being absolutely constrained, the Secretary should have discretion to take into account any serious adverse impacts on a railroad's freight operations which may result from additional service. However, it is the purpose of this provision to ensure that such service may be added where no significant impairment of freight operations is demonstrated.

HARLEY O. STAGGERS,
LIONEL VAN DEERLIN,
JAMES J. FLORIO,
JIM SANTINI,
BARBARA A. MIKULSKI,
JOHN M. MURPHY,
ROBERT T. MATSUI,
JAMES T. BROYHILL,
EDWARD R. MADIGAN,
GARY A. LEE,
Managers on the Part of the House.

HOWARD W. CANNON,
RUSSELL B. LONG,
ADLAI E. STEVENSON,
BOB PACKWOOD,
NANCY KASSEBAUM,
Managers on the Part of the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

MAKING IN ORDER ON THURSDAY, MAY 22, 1980, CONSIDERATION OF CONFERENCE REPORT ON S. 2253, ROCK ISLAND TRANSITION ACT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that it be in order on Thursday, May 22, 1980, to consider the conference report on the Senate Bill (S. 2253) to provide for an extension of directed service on the Rock Island Railroad, to provide transaction assistance to the purchasers of portions of such railroad, and to provide arrangements for protection of the employees.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, may we know what the conference report is?

Mr. STAGGERS. The conference report is on the Rock Island Railroad and the Northeast Corridor.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia (Mr. STAGGERS)?

There was no objection.

INDEPENDENCE OF CUBA

(Mr. PEPPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEPPER. Mr. Speaker, we have had the honor, today, of having had our opening prayer said by the distinguished representative for the Committee on Government Regulations of the Catholic Health Association of New York, Rev. Harry Barrett.

Reverend Barrett, who has had an outstanding career, so far, in the field of the ministry as well as charitable pursuits within the archdiocese of New York and its public health arm, was educated at Columbia University and St. John's and has been a Catholic clergyman since 1973.

While we heed the benedictions and blessings pronounced for us this morning, let us not forget the lack of blessings on the island of Cuba, whose people are seeking to leave their economic and political misery in droves. Their poverty and lack of opportunities as well as the degree of Cuba's political enslavement by the power-hungry Fidel Castro, who has sold Cuba to the Soviet Union's influence, are pitiful and deplorable. This beautiful pearl of the Caribbean as it was once called is being dimmed and ravaged today by Castro—at the expense of Cuba and its neighbors, who suffer Castro's diatribes and interference in their domestic affairs.

With Reverend Barrett, this morning, and every day, let us pray for peace and a renewed commitment to democracy in a future Cuba free from Castro's and the Soviet Union's strangling domination. Cuba's independence has been sorely violated and is being used to advance the cause of Soviet expansionism and aggrandizement among other, smaller independent nations. Let us pray and work for true Cuban independence soon.

DEREGULATION COMMITTEE SHOULD PUT HOUSING FIRST

(Mr. ST GERMAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ST GERMAIN. Mr. Speaker, this Nation is staying barely above the 1 million mark in new housing starts—a level some 42 percent below production a year ago.

Despite minor improvements in mort-

gage interest rates in recent weeks, this remains a highly serious problem, not only for the millions who are seeking decent housing but for the entire economy. We cannot allow the housing industry to collapse or to remain in its present comatose state and it is essential that the policies adopted by the Congress and the Carter administration be consistent with efforts to revitalize this key sector.

High interest rates, coupled with a severe outflow of savings from institutions which make the majority of the Nation's housing loans, have placed this industry in its most precarious position since the 1974–75 recession. March withdrawals at insured savings and loan associations exceeded new savings receipts by $900 million. This compares with an inflow of $3 billion in March of 1979 and is the worst first quarter saving data in 10 years.

Mr. Speaker, clearly this trend must be reversed if housing is to recover. President Carter recognized this when he imposed selective credit restraints on March 14, calling for the program "to encourage the flow of available credit supplies for investment and other productive uses" The President said:

> Special attention will be given to the particular needs of small businesses, farmers and homebuyers.

A key issue in this effort to encourage a new savings inflow into the thrift institutions—the institutions which provide the overwhelming majority of first mortgage funds to homebuyers—comes up this afternoon before the Depository Institutions Deregulation Committee.

At issue is the ability of mortgage lending institutions to pay an extra one-quarter of 1 percent to savers on money market certificates. This one-quarter of 1 percent differential is triggered when the money market certificate rate falls below 9 percent. The differential on these certificates—as is true for the statutory differential on passbook accounts—is intended to assure that the thrift institutions are not placed at a competitive disadvantage on savings.

The differential is based on two very simple premises: First, that we have a national policy to encourage the production of housing; and second, that commercial banks, with checking accounts, corporate lending powers, corporate deposit powers, and a multitude of other exclusive powers have great advantages over thrift institutions in attracting new funds.

Recognizing the need to lessen these differences and to assure more even competition for the savers' dollar, the Congress in March of this year passed the Depository Institutions Deregulation and Monetary Control Act, Public Law 96–221. This law provides for the gradual phasing out of regulation Q which has provided the regulatory structure for limiting interest on savings accounts.

Mutual savings banks will be given a limited degree of corporate lending and deposit power. All the thrift institutions will be able—beginning in January 1981—to maintain NOW accounts, the first cousin to the commercial banks' checking account privileges. Savings and loan associations will eventually have new consumer lending powers, broader real estate lending ability, authority for trust operations and some other minor improvements in status.

All of this, when it is ultimately in place, will give the thrift industry a more complete base from which to attract and hold its customers. The commercial banks will continue to hold a number of exclusive and meaningful competitive advantages, but the field will be a little more level.

But, the important thing to remember Mr. Speaker, is that this leveling of the field—the granting of these competitive equalizers—is not yet completed, in fact, it has just begun. The Federal Home Loan Bank Board on May 12 published in the Federal Register a timetable which calls for the regulations implementing this "leveling" process to be promulgated over the next 6 months with additional time for comment. And the NOW account powers, of course, will not, by statute, be available to the thrift industry until next year.

The legislative history—in fact, the act itself—is very clear that the elimination of interest rate controls goes hand in hand with the competitive equalizers, the new powers. Mr. Speaker, without this understanding and without the inclusion of these new powers, there is no way that H.R. 4986 would have cleared the Congress.

Despite this, there are some in the commercial banking industry who now believe the Deregulation Committee, created by H.R. 4986, should jump the gun, ignore the fact that the new powers are not in place, and ignore the fact that the Congress voted a 6-year phase-out of interest rate controls. They now argue that the Deregulation Committee should order, without further ado, an end to the differential on the money market certificates.

I am not surprised that the banks would take this position. It is well worn policy in their ranks. It is understandable from their view of the world.

But, I do hope that public officials. appointed by President Carter to serve broader purposes, will follow the clear intent of Congress and that the national interests will outweigh the parochial desires of any segment of the financial community. We do have a national policy on housing and I sincerely hope that these Presidential appointees will take a hard look at housing production figures before they do anything which might, even in the smallest degree, adversely affect the hopes for a renewed flow of mortgage credit. This is hardly the time for new experiments in the already difficult area of volatile money market funds.

Mr. Speaker, the Deregulation Committee will have much work to do in coming months and I would urge it not to expend its energies, and its good will, with an improper and unwarranted attempt to prematurely eliminate the differential.

INTRODUCTION OF BILLS TO ALLOW EMPLOYMENT OF TEMPORARY ALIEN WORKERS BY U.S. AGRICULTURE

(Mr. SHUMWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUMWAY. Mr. Speaker, I am today introducing two related bills to make more realistic and efficient the process by which temporary alien workers may be employed by U.S. agriculture.

In my home State of California, the shortage of qualified agricultural labor is chronic—particularly during the busy planting and harvesting seasons when additional workers are usually required. Because able and willing domestic workers are often unavailable, farmers and growers have no real choice but to rely on those individuals who are willing and available. Unfortunately, such individuals tend to be illegal aliens.

I am well aware of the overall complexity of the illegal alien problem, and of its increasing impact on the social structure of our Nation. I am not here proposing a general solution to this difficult problem. Rather, I am attempting to ease the burden that now is all too often unfairly borne by U.S. farmers.

Mr. Speaker, I know of no farmer or grower who wants to employ illegal aliens; who knowingly breaks the law with impunity. The strained relations that often prevail between farmers and local INS agents attests to the difficulty of the current situation. The outcome, of course, is that farmers are often left without workers at those very times when they are most needed.

My legislation amends the Immigration and Nationality Act to regularize the process whereby alien workers may be certified for temporary employment. I am not proposing a "bracero"—like program, although I am strongly supportive of efforts in this area. My amendments, rather, deal specifically with the (H) (II) program under which the Immigration and Naturalization Service may now issue nonimmigrant visas for temporary employment.

The law currently allows temporary visas for no more than 1 year to be issued if the Secretary of Labor determines that unemployed persons who are able, willing, and qualified are not available in this country. I am proposing that, in the case of agriculture, this provision be changed to reflect the availability of agricultural labor in the specific area in which the employment or labor will be performed.

It makes very little sense, Mr. Speaker, to expect California growers to assume that qualified workers can be found in New York or Florida or Kansas; workers who would be willing to move to California on a temporary basis. Not surprisingly the experience since the demise of the bracero program in the early 1960's has been one of failure. It is just not realistic to rely upon major relocation—particularly in view of the fact that eligibility for unemployment compensation is not dependent upon leaving home to look for a job. In short, then, it is only reasonable to mandate that the required recruitment search be areawide rather than nationwide.

In conjunction with this improvement of current law, I am proposing an (M) program for agriculture, to be administered by the Secretary of Agriculture rather than the Secretary of Labor.

Although treated similarly, agriculture would be expressly excluded from the (H)(II) program; the Secretary would have a 20-day period, rather than the current 60, in which to refer qualified domestic workers before aliens could be certified.

Farmers and growers can obviously not always predict 2 months in advance what their labor needs will be. Since my legislation mandates only an areawide search, 20 days will be ample time to comply with the requirements of the law, while at the same time allowing farmers a more accurate basis on which to determine their labor requirements.

Mr. Speaker, my legislation is modest in scope. Its purpose is not to discriminate against domestic workers, but rather to strengthen existing law by basing it more firmly in reality. It is my belief that, upon enactment, my legislation will ease the burden both on agriculture and on the INS by substantially reducing the incentive and need to employ illegal aliens. The essential choice is quite simple: Either we make temporary worker programs more realistic, as I am attempting to do, or we continue to be confronted with a growing illegal alien problem. I urge my colleagues to join in support of this effort.

WILL WASHINGTON BUREAUCRATS DICTATE HISPANIC CULTURE?

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, in return for a Federal contribution of 7 percent of the total cost of running our educational system, our local schools are now burdened with a vast and expanding mass of paperwork, and have lost control of educational policy to Washington. As Jack Perkins pointed out on NBC's Prime Time Saturday on May 10, "local control of schools" is now a "palliative myth." Those who want the Federal Government to "support diversity" in this country should take warning from this example. Help from Washington too often means control from Washington.

Many groups in this country want Federal programs to help them maintain their special culture, largely through the bilingual education program. Hispanics constitute the largest of these groups, but by no means the only one.

The fact is, of course, that there is not just one "Hispanic culture." Mexico is not Spain, Puerto Rico is not Mexico, and the culture of Cuba is widely different from all three. To put Paraguay in the same category with Argentina is as absurd as putting Glasgow in the same category as southern California. But, if this Government "help" continues to expand, we will find that Hispanic culture will be homogenized and dictated by the same group that homogenizes and dictates national educational policy today: Washington bureaucrats.

I made the same kind of warning, again and again, to local educators seeking Federal aid in the early 1960's. The very idea that Federal aid would lead to Federal control was, quite literally, laughed off, and I was often branded "anti-education" because I issued these warnings. Today, the circumstances, are very similar: I am warning about the dangers of a Washington-dictated "Hispanic culture," and I am branded "anti-Hispanic" for it.

Anybody who is afraid of being labeled should stay out of politics, so being called "anti-education" or "anti-Hispanic" is one of the parts of the job. Frankly, I would far rather accept one more label than have the melancholy satisfaction of seeing my predictions come true, as was the case in the intrusion in local education by the Washington bureaucracy. I am neither anti-education nor anti-Hispanic, but I am anti—when it comes to bureaucratic control over what should remain individual and local decisions. Anyone who seeks to have the Federal Government do something for them should look at history, and see that it always means that the Federal Government will also be doing something to them. It is a very short step from having Washington give money to support a culture to Washington dictating what that culture is.

OIL IMPORT FEE

(Mr. HORTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HORTON. Mr. Speaker, as a cosponsor of House Joint Resolution 531, a resolution disapproving the President's imposition of an oil import fee, I was pleased with Judge Aubrey Robinson's ruling that the fee is unconstitutional. Although the administration is currently in the process of preparing an appeal, I am confident that not only will the ruling stand, but swift congressional approval of House Joint Resolution 531 will spare the already burdened American consumer still another devastating tax.

The President announced his intention to impose an import fee as a means of reducing American consumption of foreign oil. I share his desire to eliminate our dependence on the OPEC oil cartel. Our excessive dependence jeopardizes our economy and our national defense. However, levying what would amount to a 10-cent-a-gallon gasoline tax is both unconstitutional and inflationary.

For several weeks, the Energy and Environment Subcommittee of the Government Operations Committee has been investigating whether the fee could be passed on to other products. The subcommittee's efforts were thwarted by the Energy Department's refusal to turn over memoranda regarding the fee. Only after the subcommittee issued a subpena and cited Secretary Duncan for contempt did he turn over the memos. The subcommittee decided not to pursue this legal course of action after the Secretary furnished the documents. It is my understanding that some of those documents question whether the import fee could be limited only to gasoline, raising in the process, the legitimate fear that home heating oil and other petroleum based products would also be affected.

The President has, through his proposed import fee, failed to recognize that energy independence cannot be achieved solely through complex taxes and regulations. Expanded use of our own domestic energy resources, coal, nuclear and oil, coupled with reasonable conservation efforts will enable us to reach the goal of energy independence in far less devastating ways.

By a vote of 14 to 4, the Senate Finance Committee voted to repeal the oil import fee. The Trade Subcommittee of the Ways and Means Committee registered its disapproval of the fee in a 17 to 4 decision. I am hopeful the House will soon have the opportunity to declare its opposition.

□ 1810

DATELINE: INFLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. KELLY) is recognized for 5 minutes.

Mr. KELLY. Mr. Speaker, the people must know the truth about the role of politics in causing inflation. If the truth is hidden from the voters, the ballot is futile. The ballot is the solution, because politics is the problem.

Irresponsible political leadership for the last 50 years is the root cause of inflation and all of our economic problems. Our political leaders have been buying votes with the jobs, prosperity, and security of America.

Government growth began after the Great Depression. In 1929, Federal spending accounted for only about 3 percent of our gross national product (GNP). This percentage has crept steadily higher since then, as the idea that stimulation of "demandside" economics took hold in Washington: It was 10 percent in 1940; 16 percent in 1950; 18.5 percent in 1960; 20.5 percent in 1970; and 22 percent estimated for 1980 and 1981. It was easy for politicians to adopt "demandside" economics, stimulating the economy on behalf of their "friends," while promising generous tax cuts and running up huge deficits.

A good place to start an understanding of the problem is with the present political conversation about "balancing" the budget.

This is the way it really is:

First. The budget will not be balanced:

Even if it were, it would represent a $42.6 billion increase in Federal spending;

Even if it were, it would represent a tax increase of $95.6 billion, the largest ever in peacetime history, and

Even if it were, there is $138.6 billion in off-budget Federal financing that is controlled by the Government, by politicians, for political purposes in the form of direct loans and loan guarantees.

Second. The budget, balanced or otherwise, does not show how Federal spending is used to encourage spending by State and local governments—funds that would not otherwise be spent. This spending is encouraged through such devices as:

"Matching funds"—those Federal funds paid to local governments if they will spend them on specific programs, and

"Ripple effect"—what results when the private sector and local governments are induced by thee Federal Government to spend money that would not otherwise be spent, on "urban rehabilitation" and similar programs.

Another area of Government or political control of the economy is Government regulations and laws. Through these devices, financing, credit, and money are all controlled politically in much the same way that taxes and Federal spending are politically controlled. Here are several examples of what the laws and regulations do:

First. They compel State and local governments to engage in programs and practices that consume billions of dollars, over which local governments have no control, and about which they have no choice;

Second. They compel business, industry, and the private citizens to spend billions of dollars to be in compliance, much of which is wasteful and inefficient, and

Third. They compel both local governments and citizens to pay more for labor and production than would be the case otherwise—that is Davis-Bacon Act, Jones Act, et cetera.

Then, in addition to all the other failings of our political leaders, they cause the Government to print worthless paper money which is mixed in with the money held by the people in the form of savings, cash, bonds, pensions, et cetera.

Inflation is a tax almost totally imposed by Government, equal to the dollar-devaluation it causes, plus the increase in the tax levy that results. This applies to both income taxes and property taxes.

Our Government, our political leadership, our politcians cause inflation in other ways that are extremely serious. Taking capital away from the means of production by taxes, too much Federal spending and Government regulations are a few examples.

When free industry and agriculture fail to invest in new technology and machines, and fail to engage in adequate research and development, then the result is stagnation or reduction in productivity. Free industry is industry or business not owned or directly subsidized, and so controlled, by government. The list is shrinking in all sectors of agriculture, industry, and business as political control of freedom expands.

We have only to look at such U.S. industries as steel, auto, electronics, optics, shipbuilding, maritime, and shoes to see the serious results. Goods produced by these industries cost more because the industry's efficiency suffers and jobs consequently, are lost to foreign producers. This causes a vicious cycle which worsens each time around. The politicians then blame the private sector for the failure caused by the Government and use the "failure" as an excuse or opportunity to increase its control over what remains of free industry.

Not unrelated in these results are two other significant areas of Government control. The first is the efforts of Government to discourage savings. The accumulation of capital is absolutely essential to a healthy, productive economy. The other area is Government provision for programs that actually encourage people not to work.

There is no farmer in a State such as Florida who is not acquainted with the impact of the food stamp program on his ability to find workers to harvest crops, or to maintain production costs that are competitive on the world markets.

Those people in the United States today who save to provide for their own security are penalized because the interest, which is a benefit of saving, is taxed, and the amount of interest they can earn is controlled by regulations.

There are innumerable instances where work disincentives discourage our people from working. An example is the penalty that is imposed on social security payments for senior citizens who need to work and often are our most experienced and productive people.

It is not an uncommon thing for an individual to be better off on unemployment and food stamps than he would be if he were engaged in productive labor.

All of this is the fabric of inflation. It is complex, but it is logical, and it is the truth. We must reverse the process. It is basic to our security as well as our prosperity.

Inflation, if not stopped, will be fatal to the economy. Inflation is a threat to the savings and security of the individual, and is a direct threat to the very survival of America.

A reduction in Government spending, taxation, and regulation is the only solution.

To save themselves and the country the people must look to the record of leadership, and not listen to the election-year rhetoric. Let the politicians' voting record be the voting guide of the people.

EXPORT TASK FORCE ARTICLE NO. 20: PRESIDENT CARTER ANNOUNCES WORLD TRADE WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 15 minutes.

● Mr. ALEXANDER. Mr. Speaker, President Carter has proclaimed the period of May 18–24 as World Trade Week. As Members of Congress we should use this opportunity to emphasize to the people of the United States that trade is vital to our country's economic health and well-being.

During the 1970's our Nation faced huge trade deficits the effects of which continue to haunt us today. In the 1980's we must make every effort to increase our exports so that we can maintain high levels of employment, counterbalance our huge oil import bill and support the integrity of the dollar on overseas money markets. World Trade Week offers a unique opportunity to display our determination to end our trade imbalance by increasing the exportation of American goods and services abroad.

The following is Presidential proclamation 4722 announced by the President February 14, 1980, declaring this week as World Trade Week, 1980. The proclamation follows:

[Presidential documents, proclamation 4722 of February 14, 1980]

WORLD TRADE WEEK, 1980

By the President of the United States of America

A Proclamation

The United States has set out with vigor and determination to implement the historic trade agreements concluded in the Tokyo Round of the Multilateral Trade Negotiations. The Administration has conducted a major reorganization of the Federal Government's trade functions in order to take greater advantage of the opportunities these agreements offer. The 1980s begin to emerge as a time both of challenge and renaissance in the world of international commerce. They will be America's decade for trade.

Expanded world trade contributes to the growth of economies throughout the world and opens new avenues of cooperation that serve us in our quest for peace and human rights.

Increased U.S. exports will mean more jobs for American workers, new markets for American business, more secure income for American farmers, a strengthened American dollar and lower costs for American consumers. Trade promotes our economic health and moves us closer to our goal of a prosperous and secure America at peace with the world.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby proclaim the week beginning May 18, 1980, as World Trade Week, and I request all Americans to cooperate in observing that week by participating with the business community and all levels of Government in activities that emphasize the importance of world trade to the United States economy and to our relations with other nations.

In witness whereof, I have hereunto set my hand this fourteenth day of February, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

JIMMY CARTER.●

KING CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, I shall not take the 15 minutes, but for some time now I have not reported on the subject matter that had occasioned me addressing the House almost weekly since last year, I would say a year at the end of this month, which will commemorate the 1 year after the assassination of Federal District Judge John W. Wood and a year and a half or so since the attempted murder of the Federal district attorney for the western district, James Kerr. Because of the fact that I have importuned the House repeatedly, I wish to give an explanation as to why, for the past 7 or 8 weeks, I have not addressed the subject matter.

The reason is that I feel that I have reached the end of the activities that any one Member can promulgate toward the resolution of what I consider to be the

most important pending business before the Nation. I have pointed out repeatedly that the assassination of this Federal judge is unprecedented in the annals of judicial history of our country; that is a direct assault on not only the third branch of our Government, but a reflection of the malaise that is like a pointed dagger at the heart of our society; that is, the successful incursion on the part of organized crime into the inner recesses of every level of our society, whether it is political, governmental, business, or social; and that this crime, which is unprecedented and which remains unsolved, and even the glimmerings of the beginning of a solution, clearly point to the successful challenge on a direct affront basis on the part of organized crime to the constituted authorities, and therefore the society, of our country.

I have done everything but personally go out and assume the prerogatives of the law enforcement agencies. Specifically, I had introduced a resolution in which I asked the joinder of my colleagues in order to further impress upon the executive branch the need to give priority to the solution of this very bothersome and nettlesome case. That resolution expressed the sense of the House that it would be our desire that the President authorize and indicate his authorization and approval to the Justice Department of the offering of up to $3 million for information leading to the arrest and the conviction of the culprits responsible for the murder of Judge Wood and the attempted murder of Assistant District Attorney James Kerr.

The meagerness of the response leaves me no other conclusion than that there is no support. In fact, I did not even get the support of my colleague who represents, technically, the area in which the crimes were committed, the attempted murder of Kerr and the murder of John Wood. They were all committed in the suburban area of San Antonio, one of the more affluent, sedate neighborhoods in the whole country; not in that part that I represent, which is now the inner section of the city. My district used to be the entire county, but when I cannot even get the support of a colleague in the House in whose district the murder happened, I feel whatever legitimacy I thought I had to my request is just simply not there, and there is no use pressing the point.

Second, I had invited the interest of the Justice Department towards approaching the solution of this case through a revival and a solution to the case of Sante Bario, who was the Drug Enforcement Administration official who was arrested in San Antonio at the time that he headed the Mexico City office on the charge of bribery simply on the information of one of the top-level informers in the country.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I will be glad to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, Mr. ROUSSELOT and myself have been listening to the gentleman, and were somewhat taken aback by the lack of cosponsors on his resolution. This was a Federal judge who was murdered, and this was a U.S. attorney involved in the attempted murder.

Mr. ROUSSELOT has authorized me to ask if he could become a cosponsor, and I should like to become a cosponsor also.

Mr. GONZALEZ. I am deeply grateful to my distinguished colleague. It is very encouraging. I had sent out a dear colleague letter, but I understand dear colleague messages and the difficulty to go through the mass that we receive every day. But, I did have a follow-up on that, and frankly speaking, I started with my own delegation from Texas. Even after three letters, there arrived a very meager response. But, this is very encouraging, and perhaps with the gentleman's help we might be able to turn this around.

Ironically, Judge Wood was one of the very few—in fact, for several years the only one—who was identified as an appointee of a Republican administration. I just think it is a shame to have our only Republican murdered, besides other things.

But more importantly, more importantly is a direct challenge, and it has resulted in the intimidation of the judiciary. Let me tell the Members how ludicrous it is, how ironic. The criminal is walking the street with his head high, assured that there is very little chance that he is going to really ultimately be pinned down because the case is cold now. It is going to turn out to be another Jimmy Hoffa case. Yet, the judiciary in that area is all under Federal marshal's protection and custody, including the district attorney and his wife. Everyone of them is under protection. They have U.S. marshals with these officials, under protection constantly. They are the agents that we ourselves depend on to enforce the laws and prosecute them and judge them fairly and evenly, and without fail, and they find themselves intimidated. This is why I call this crime the greatest crime in the 20th century in American society.

I was chastised by one of the local papers, saying, "How can you compare this with the assassination of Kennedy?"

Well, I do, even though the enormity of the assassination of President Kennedy is great. This is the first time we have had this kind of crime. About a hundred years ago a Federal judge was murdered, but not for a reason that an attempt was made to either seek revenge for judicial determinations or judicial intimidation, which has been successful.

□ 1820

There is no question that the judiciary is intimidated, and the type of activity that had become hyperactive in our area involving international crime is at the heart of the whole matter.

So it is discouraging, but nevertheless I suggested taking other action as a result of the speechmaking here, and that was that the Sante Bario case be approached as a possibility of an avenue to solving it, because there is no question in my mind that the Sante Bario case has a bearing on the ultimate solution of the Judge Wood case.

Sante Bario was arrested in San Antonio, presumably for accepting money from a most sophisticated top-level informer who was really a triple agent—more than a double agent—a Frenchman by the name of Picault. And nobody has ever explained why Bario would come all the way to San Antonio when the scene of activity, even for Picault, was in Mexico City to receive $3,000 or $4,000 or $5,000 from Picault when he could easily have done that, and 10 times over, in Mexico City.

Also, Bario had an illustrious history. He is the one who wrote "The French Connection," concerning investigations in the North with respect to the heroin traffic from France. He was, up to that point, unblemished in his record of performance.

There are many aspects to this. I received information indicating that there are some very troubling aspects with respect to the Sante Bario case. But what a coincidence that a few days after his arrest, after having been brought down, while placed in custody some 80 miles north of San Antonio where he was held for safety in a small community jail, he was brought into the Bexar County jail, and in almost hours after he was there, he presumably choked on a peanut butter and jelly sandwich and went into a coma from which he never recovered. He lingered in a coma for 6 months and died.

Now, anybody who is ready to believe that and who thinks that needs no investigation surely must believe in Little Red Riding Hood and Snow White and the Seven Dwarfs and everything else.

There is no question but what there are very troubling aspects to this. The whole case was built around a criminal who himself, with the working arrangements in that underworld section of human activity, gave him the sole power over a Federal agent.

I had three meetings with the Director of DEA, and let me say frankly that after those three meetings I was very discouraged, because I feel that there are some elements there involving the fact that Bario was working on what I call "The El Paso Connection," and that is that particular traffic of international crime that I hold responsible for the murder of John Wood.

So, Mr. Speaker, I may add with this summation that, after finding total frustration, I did get one of the assistant attorney generals to direct a letter to the DEA suggesting that they do that. But the DEA has shown absolutely no willingness to reopen or reexamine or look into the case.

So it seems to me that I have done as much as one Member can do other than coming here and importuning the House periodically. That is all, it seems, that I am able to do, and I can do that.

There is one further thing, though. Over in the Senate, a Senate subcommittee is going into the question of organized crime in the United States, and some of the information received there confirms some of the charges I have made in the prior speeches I have made here on the House floor.

Also, there is a periodical that is now being published in Florida in which substantially the same things I have said have been substantiated in specific instances.

So, Mr. Speaker, I feel that, with the exception of the help of my two colleagues here, the gentleman from California (Mr. ROUSSELOT), and the gentleman from Illinois (Mr. HYDE), I will wind up this effort and see how we can proceed. We will see if we can get some cooperation in order to impress upon the executive branch the need to give this matter top, No. 1 priority and not let it go into the dust of history, to be forgotten and covered over very much like the murder of Jimmy Hoffa.

HOW TO FIGHT INFLATION BY CONSERVING GASOLINE BY DISCOURAGING NONESSENTIAL USES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 30 minutes.

● Mr. REUSS. Mr. Speaker, our appetite for gasoline causes us to import swollen amounts of oil, thus weakening the international dollar and greatly exacerbating our inflation.

Various proposals for limiting our dependence on imported oil have floundered, in most cases because they make no provision for cushioning the shock on those millions of Americans who need gas to commute to and from work, and for other essential purposes.

I recently asked the staff of our House Committee on Banking, Finance and Urban Affairs to prepare background material on how the problem might be solved. The staff, particularly W. Lawrence Hollar and Mary Noel Pepys, have done a serviceable job, and the material that I present here is the result of their researches.

How much motor fuel do Americans use for getting to work, for family business, and for recreation? What ways have been suggested to moderate this country's desire for motor fuels—and to make the Nation less dependent on imported oil? Is there an approach that offers promise of significant energy savings and protection for essential uses, without creating a cumbersome bureaucracy?

For years preceding the 1970's, a plentiful supply of inexpensive gasoline made driving easily affordable. Gasoline selling for 20 to 30 cents a gallon eliminated serious worries about the cost of driving for many Americans, even those owning large, gas-guzzling models. The automobile became the way Americans traveled both to the local store and across the country.

The Arab oil embargo of 1973–74, coupled with the decreases over time in domestic production and increases in reliance on foreign sources, began to bring America back to reality. The shock of waiting in gas station lines for hours, and paying prices for gasoline that edged over a dollar a gallon by the end of the 1970's, have brought home the need for a more rational approach to energy conservation.

By the end of the 1970's, America was importing 43 percent of its petroleum products, and two-thirds of its petroleum imports came from OPEC countries.[1]

By late April, 1980, the pump price for regular, leaded gas had reached $1.21, and unleaded was selling for an average of $1.25, even before the impact of an expected additional 10 cents per gallon from an oil import fee [2] was felt. These prices each reflected more than a $0.40 increase over the average prices for regular and unleaded gasoline 11 months earlier.[3]

As gas prices soared, imported cars offering better gas mileage than most American models began to take an increasing share of new car sales in the United States. These dollars flowing abroad, added to those going to OPEC countries, aggravated the U.S. trade balance-of-payments problem.

With the increasingly serious energy situation in the 1970's, Government officials, economists and others began to discuss the alternatives for reducing overall demand for gasoline. A variety of voluntary efforts to save gasoline were tried, including the encouragement of car and vanpooling and the creation of express bus lanes. None of these had a major impact on gasoline usage. Rising prices did have some effect on consumption.[4] Increasingly, many Americans expressed a willingness to accept some form of rationing as a method of curtailing overall demand.[5]

The United States currently consumes about 7 million barrels of gasoline a day,[6] three-quarters by personal passenger vehicles and the remainder by gasoline-consuming trucks.[7] Other motor fuels, primarily diesel fuel, used in America amount to 836,000 barrels a day,[8] or about 10 percent of the total motor fuel used. By way of comparison, total petroleum imports from foreign sources amount to about 8.3 million barrels a day.[9]

Americans own between 100 and 120 million cars that they use for an average of 10,000 miles each year.[10] With fuel economy hovering at 14 miles per gallon for the U.S. auto fleet,[11] each car consumes about 700 gallons of gasoline a year.[12]

Estimates vary on how much driving people could or would give up. The Energy Department, relying on 1969–70 data provided by the Federal Highway Administration, has estimated that between 29.5 and 40.5 percent of personal driving is discretionary—meaning that it can be more efficiently made in another available mode of transportation, that it can be combined with another trip, or that it can be eliminated without loss or damage to the health or safety of the community. DOE estimates that 5.3 million barrels of gasoline used per day is for personal use, representing 76 percent of all gas consumed, so that between 1.5 and 2.1 million barrels per day are discretionary.

The following are the categories of personal use and the percentage of total use each represents: [13]

Earning a living: 42 percent of personal use.

Family business: 19 percent of personal use.

Civil, educational, and religious: 5 percent of personal use.

Social and recreational: 33 percent of personal use.

Other: 1 percent of personal use.

The following are the percentages of total personal use that DOE staff estimates are discretionary for each category of use:

Earning a living: 4–6 percent of personal use.

Family business: 2–4 percent of personal use.

Civil, educational, and religious: 0.5 percent of personal use.

Social and recreational: 23–30 percent of personal use.

Other: 0 percent of personal use.

The total amounts to 29.5–40.5 percent of personal use.

Therefore, whereas 70 to 90 percent of social and recreational use is considered discretionary by DOE, only 10–15 percent of use involved in earning a living is considered discretionary.[14]

On the other hand, a conference board survey, discussed in the February 1980 issue of the board's publication, found that the average American family could "reduce its driving by 11 percent fairly easily." Close to 45 percent of those surveyed said they could reduce driving by more than 10 percent, and almost half of those said they could cut by 20 percent or more.

Three basic approaches have dominated the debate on gasoline conservation: First, a rationing system using coupons, similar in certain respects to the World War II plan; Second, price increases; and Third, increased taxation of gasoline to raise its price at the pump. Some of these taxation plans call for the consumer to receive a rebate or reduced taxation elsewhere for at least a portion of this added tax expense.

We shall now describe the various ways in which consumption of motor fuels can be reduced, either by using coupons, by using price alone, or by using the taxing mechanism.

I. RATIONING

A. WORLD WAR II

World War II gave this country its only experience with a formal rationing system. After voluntary efforts at conservation proved ineffective, a nationwide gasoline rationing program took effect late in 1942 as a part of a wide-ranging rationing program for commodities such as rubber products, typewriters, shoes, meats, automobiles, and sugar.

The system for gasoline was based on three types of coupons issued to licensed drivers which were valid for varying lengths of time. Gasoline could not be dispensed at the pump without the driver presenting coupons for the amount of gasoline desired. All drivers who asked for them received relatively small "A" rations, good for about 16 gallons a month except on the east coast where supplies were tighter.[15] "B" rations, providing an extra 21 gallons a month for work-related driving, were given on demonstration of additional need. "C" rations were available for heavy users such as ministers, doctors, and traveling sales persons.

Footnotes at end of article.

Requests for ration coupons were made to local rationing boards composed of volunteers, who could allocate coupons based on need. Commercial and agricultural users essentially got all the gas they needed if they were certified as necessary for the war effort.

Once coupons were allocated to users, they could not be sold or given to other users. This limitation led to some black market transactions in coupons, particularly late in the war. One estimate is that no more than 5 percent of gasoline sold involved counterfeit or stolen coupons.[16] Whatever the level of black marketeering that occurred, it was generally an aberration in an otherwise rather successful rationing program that managed to reduce civilian demand by one-third and keep gas prices virtually constant during the war.

Rationing worked. People were willing to sacrifice for the war effort and to participate without pay on 5,600 local rationing boards. Rationing worked least well in places (such as Texas) where people could not believe that shortages actually existed. On the east coast, however, where shortages were a reality by 1942 when sea-bound oil supplies were disrupted by the threat of German submarines, rationing was more palatable.

One of the main difficulties with rationing during the war was the bureaucratic overlap at the Office of Price Administration, the Petroleum Administration for War, and assorted other offices both in Washington and at regional and State levels that were involved in the program. What the overlap ultimately led to was a glut of valid coupons on the market, without supplies to back them up. This was particularly true of commercial users, who were not strictly limited in their entitlements as were individual users.

The size of the Government bureaucracy itself does not seem to have been a problem during the war, because the significant numbers of volunteers lessened the overall impact on the Federal budget, and because people understood the temporary nature of the situation. In addition to the governmental apparatus, 14,000 commercial banks served as clearinghouses for canceled ration coupons.

B. PRESIDENT CARTER'S STANDBY RATIONING PLAN

In 1976, the Federal Energy Administration produced the first serious postwar plan for gasoline rationing. The plan, prepared in response to the Energy Policy and Conservation Act, was a standby program for use when gasoline and middle distillate supplies fell 20 percent below the base period for at least 30 days. The plan involved coupons that legally could be bought and sold, and a federally imposed price control system. Coupons would be distributed to holders of driver's licenses. The plan was transmitted to Congress very late in President Ford's term, and was withdrawn by President Carter for a thorough review.

The result was a new standby plan transmitted by the Department of Energy (DOE) in March 1979, which had the following essential features:

Footnotes at end of article.

First. Ration checks would be sent to individual owners of registered vehicles, these checks to be transferable into coupons at issuance points such as banks. Coupons would be surrended at service stations in exchange for specified amounts of gasoline.

Second. The size of the ration check would be decided by the States based on what was left after national defense and emergency uses and certain designated "priority" uses had been satisfied. States would be responsible for dealing with hardship cases requiring greater than normal allotments out of a State ration reserve.

Third. Coupons would be freely transferable between users.

Fourth. Firms and organizations would receive allotments based on their vehicle registrations, rather than based on a percentage of their historical usage as in the Ford administration plan.

Fifth. The plan did not include a price control system, although it was designed to be compatible with such controls if they were considered desirable at the time rationing went into effect.

Congress was unhappy with DOE's allocation formulas to the States,[17] and the House rejected the President's plan on May 15, 1979. In October, 1979, Congress passed the Emergency Energy Conservation Act, which required the President to prepare a new standby plan and specified in greater detail what the plan should contain.

DOE then published a proposed rule in December 1979, that in broad outlines did not differ from the earlier plan. As it evolved, the new plan came to include additional essential uses and a change in the formula for allocations to businesses.[18]

DOE estimated that the standby plan would cost between $1.5 and $2 billion per year to run, in addition to between $350 million and $400 million in implementation costs. Some 4,600 Federal employees and 27,000 State and local people would be needed, including 16,000 people to serve on local boards.[19]

C. THE PROS AND CONS OF RATIONING

Both the World War II system and the President's plan have the advantage of creating predictability about the maximum amount of gasoline that will be consumed over a period of time. The President's plan probably more accurately predicts actual usage, because the white market system allows valid coupons to be transferred to people who will consume what might otherwise be unused supplies. Viewed another way, a white market coupon system encourages wasteful use of gas by allowing those willing to afford it to buy extra coupons for gallons that have decreasing utility to the purchaser.

A coupon plan could provide for coupons to expire on a certain date, thereby preventing hoarding of unused coupons for lengthy periods. On the other hand, an expiration date is likely to cause peaks of usage as the expiration date approaches.

For those gallons that cannot or need not be used by an individual, a white market system acts as an income redistribution mechanism. Some argue that this will primarily benefit the poor, who tend to drive less than the rich, but the overall effect is uncertain. At the very least, if the poor in fact drive less than their coupon allotments would allow, a white market system is better than a black market as an income mechanism since the black market would restrict the ability of the poor to profit from the foregone gallons.

Finally, coupons provide the psychological benefit of a clear tangible reminder that times are tough and that all Americans share in the system.

Coupon systems have serious drawbacks too, the most important being the bureaucratic cost. The $1.5 to $2 billion per year needed to administer the program is about what it costs to run the State Department for a year, and not too much less than the Commerce or the Justice Departments use—all this to ration just one commodity. In addition, a substantial commitment of State and local resources is needed, without the obvious incentives of a war effort to support it.

Another problem with a coupon system is that it takes a long time to put it in place. DOE's Hazel Rollins has estimated (in a January 31, 1980 statement to the House Energy and Power Subcommittee) that as many as 7 to 12 months may be needed to put the coupon plan in place, even with an infusion of new money and personnel. These months spent waiting for a plan to be put in place would be exceptionally difficult ones if Americans are suffering with a 20-percent shortfall in supplies and have no rationing system in place to cope with it.

Another drawback is that any system that involves redeeming ration checks for coupons which in turn are used at the pump adds a new bottleneck to the flow of gasoline. Some have argued that this system will simply shift lines from the gasoline pump to the bank or other institution that redeems the checks.

Objections to the white market system also have been raised. Some see this as yet another way that the rich can have all the gas they want while the poor will opt for selling their coupons. A system with nontransferable coupons retains the incentives for people to be as mobile as they can afford to be within the overall constraints of the coupon system.

The white market also sets up a new brokerage business in ration coupons, which means that the brokers will be spending their time (and earning money) in the bureaucratic exercise of shifting coupons, rather than in more productive pursuits.

II. PRICE INCREASES

A second way to discourage the consumption of gasoline is to allow the marketplace to control the price. As the price increases, drivers will become more discriminating in their use of gasoline. Thus, the supply of gasoline need not be governmentally limited by the distribution of coupons, for the free market would effectively lower demand.

With gasoline prices already rising at the pump, some rationing by price has already occurred. The decontrol of oil prices, which the administration brought

about last year by declining to extend existing controls, keeps prices moving upward at a faster rate than would be true under controls.

One proposal that is premised on the effect of market mechanisms is the emergency standby tax plan developed by Alvin L. Alm and William H. Hogan of the Kennedy School of Government at Harvard.[20] The two authors say that a coupon rationing plan involves insurmountable administrative problems. Alm and Hogan propose instead that, when a supply emergency occurs, the free marketplace should control the increase in gasoline prices which, in turn, will discourage demand. They define an emergency to be when a gasoline shortage equals 10 percent, or when lines at the gas pump begin to form.

The authors say that during a serious reduction of supply, oil companies would receive windfall profits. To offset this, Alm and Hogan propose that an emergency windfall tax be imposed equaling 90 percent of the price increase associated with the emergency. The President would determine the base price for gasoline at a level which preexisted the emergency when market supply and demand were steady. Any increase over that base price would then be taxed by the Government at 90 percent.

The proceeds from the tax would be returned to consumers by means of the income tax withholding system. The rebate would be directed either to registered owners of automobiles or to all households. Since the poor spend less for energy than the affluent, the authors suggest that a per household rebate would be substantially more progressive than a system which rebates to vehicle owners.

The emergency windfall tax would last only during the period of the emergency declared by the President. Once the price of gasoline drops to the base tax or the President lifts the state of emergency, the tax would be eliminated.

The purpose of the Alm and Hogan plan is not to reduce demand in the long run, but rather to equitably distribute to consumers what otherwise would be windfall profits to the oil companies during emergencies.

In contrast to coupon rationing as a means of conserving gasoline, a free market pricing scheme involves little bureaucracy. Furthermore, the market would not be flooded with a new currency which a coupon rationing plan would create.

The problem inherent in rationing by price, however, is the inequity involved in treating everyone alike. The poor and the long-distance commuter are heavily penalized and will bear a substantial burden. In fairness to all drivers, a gasoline conservation plan should protect those who have essential needs for gasoline. Alm and Hogan's rebate plan, while recognizing the impact of increased gasoline prices on consumers, does not address how people's essential need for gasoline would be met. In addition, their plan is effective only during supply emergencies and does not provide any means of reducing demand over a period of time as a way of limiting our dependence on foreign oil.

Footnotes at end of article.

III. INCREASED TAXATION

Many observers believe that conservation of gasoline can be achieved by the imposition of a large Federal tax at the pump. With prices now hovering around $1.25 a gallon, which includes only 4 cents in Federal tax, proposals for an increase on Federal tax range from 50 cents to $2 a gallon.

As with free market pricing, the difficulty with a significant Federal tax is that the impact on the poor is greater than on the rich. For this reason, many proposals for increased taxation include some means of easing the burden on the poor as well as on drivers who have fundamental needs for gasoline. In this way no one is asked to sacrifice essential driving.

Gasoline taxation to reduce demand is not a new concept. For example, in 1975 the House Ways and Means Committee proposed a 3-cent-per-gallon tax to finance an energy development trust fund.[21] Also under consideration was a separate plan to impose, on a sliding scale, up to an additional 20-cent-per-gallon tax, if consumption rose above 1973 levels. If any part of this additional 20-cent tax were imposed, people over 16 years of age would be allowed a tax credit equal to the additional tax on 40 gallons of gasoline a month. Further tax credits and deductions were provided for any business use of the vehicle and for work-related travel over 25 gallons a month. The purpose of the tax was to hold consumption down to 1973 levels of 6.67 million barrels per day. The committee projected that a million barrels of oil a day could be saved by 1985, if these additional 23 cents in taxes were imposed. The proposal was defeated on the floor of the House of Representatives.

President Carter also proposed in 1977 a gasoline tax plan as part of his energy program.[22] It called for a 5-cent-per-gallon tax on gasoline beginning in 1979, plus an additional 5-cents-a-gallon increase up to a maximum of 50 cents for each year in which conservation targets were not met. Rebates would have gone either to licensed drivers or to purchasers of fuel efficient cars. The proposal was rejected by the House Ways and Means Committee.

Following is a descripition of a number of proposals suggesting Federal taxation as a means of conserving gasoline.

A. PRESIDENT CARTER'S GASOLINE CONSERVATION FEE PROGRAM[23]

President Carter has proposed a gasoline conservation fee under the authority granted him by section 232 of the Trade Expansion Act of 1962. The President planned to impose the gasoline conservation fee on imported crude oil at the cost of $4.62 per barrel. Upon receiving crude oil, whether it be imported or domestic, the refiner would pay to an entitlements fund an amount equal to 10 cents for every gallon of gasoline produced. Refiners who do not produce gasoline are under no obligation to pay a fee to the entitlement fund. Importers of crude oil would receive from the entitlements fund that amount of money which equals the increased fee they were required to pay for the imported crude oil. The increased cost of imported crude oil would then be passed along to the consumer who will be paying 10 cents more per gallon of gasoline. Importers would receive enough of the proceeds of the fee to offset the higher cost of imports, and none of the proceeds would be returned to consumers.

The President projects a savings of 100,000 barrels of gasoline per day by the end of the first year based on the increased pump price. That amount equals 1.4 percent of the total U.S. consumption. By 1983, the reduction in gasoline consumption is expected to reach 250,000 barrels per day.[24] The gasoline conservation fee should raise approximately $10.3 billion for fiscal year 1981. The President intends to continue the gasoline conservation fee until Congress passes legislation which will permanently increase the tax on motor fuels by 10 cents.

The President's proposal does not indicate how the net revenues to the Treasury from the fee or the tax will be used. At 10 cents per gallon, the average household could expect to pay over $100 more for gasoline in the next year.

B. CONGRESSMAN JOHN ANDERSON'S MOTOR FUELS CONSERVATION TAX[25]

Congressman ANDERSON's proposal raises the Federal tax on gasoline by 50 cents and reduces social security taxes presently paid by employees by 50 percent. The tax on gasoline will apply to all highway motor fuels, gasoline, and diesel fuel. By increasing the price of gasoline by 50 cents, Congressman ANDERSON estimates that consumption of gasoline would be reduced by 10 percent, or about 700,000 barrels per day.

Congressman ANDERSON projects that approximately $61 billion will be generated in gross revenues from the motor fuels conservation tax. Net revenues will be approximately $55 billion annually for the next 4 years, and $53 billion annually for each year thereafter. All revenues will be directed to the social security trust fund, and all will be returned to Americans through the following mechanisms:

ANDERSON's proposal would reduce an employee's social security contribution from the current 6.13 percent to 3 percent. For a worker earning $20,000 a year, this reduction means an increase of $626 a year in take home pay. For those workers who do not contribute to social security, the Anderson proposal would provide them with a tax credit equal to the payroll tax relief of a wage earner who does contribute to social security.

Those receiving social security would get $10 per month in increased benefits under ANDERSON's plan, to compensate for higher gasoline prices.

ANDERSON also proposes to reduce the employer's social security contribution from the current 6.13 to 5 percent. For certain businesses which depend heavily upon the use of motor fuels, a full tax credit would be available. Other businesses would receive a 10-percent motor fuels tax credit as well as a deduction for gasoline expenditures, totaling $11 billion annually.

Taken together, these rebates provide a $46 billion annual social security payroll tax relief program for employees and

employers, and a $4 billion increase in social security benefits. Other than the $11 billion in tax credits and deductions for business use of motor fuels, users of essential motor fuel receive no benefits as such.

C. SENATOR BENNETT JOHNSTON'S EMERGENCY MOTOR FUEL DEMAND RATIONING ACT

Senator BENNETT JOHNSTON introduced on April 16, 1980 (126 Cong. Rec. S3760–3767) a bill, S. 2570, to authorize the President to impose a motor fuel fee in the event of a severe energy supply emergency. The fee would be set at a level to restrain demand to the available supply, and to capture windfall gains to oil companies from price increases during the supply emergency.

The proceeds of the fee would be fully rebated to consumers in proportion to the ration rights they would have received under the President's standby coupon ration ssytem. In effect, Senator JOHNSTON's plan uses an available currency (money) instead of a new currency (ration coupons). In addition, under the Johnston plan consumers could buy all the gas they want if they are willing to pay the increased price, thus avoiding the transaction costs involved in buying ration coupons on the white market under the President's coupon plan.

The Johnston plan would use the income tax withholding system, social security payments, or the welfare system as the vehicle for rebates, and as a last resort checks could be sent through the mail.

Since the President would set the level of the fee to respond to a particular supply shortfall, the Johnston plan does not include a prediction of fuel savings. The plan is designed to respond to the same kinds of serious shortfalls as the President's coupon plan, which is triggered by a 20-percent shortfall. At that level of shortfall, the Johnston plan would need a very heavy fee (perhaps as high as 200 percent) to achieve very shortrun benefits (in the first 3 months), while a 100-percent fee could reduce demand by 20 percent by the end of the first year of the fee.[26]

The purpose of the Johnston plan is to avoid the waste, complexity and delay of a coupon system while using the President's coupon allocation system as the basis for distributing money fairly. It is in this last aspect that the Johnston plan takes on a complexity of its own, since it will require many of the same hard decisions (and, pesumably, appeal mechanisms) on who gets what rights that arise under the President's plan.

D. ROBERT H. WILLIAMS GASOLINE TAX PLAN[27]

Robert H. Williams of Princeton University has proposed a plan to tax gasoline so that each gallon would cost $3. If this occurred, Williams projects an immediate reduction in gasoline demand and estimates that by 1990, gasoline consumption would be cut almost in half, assuming the tax were $2 per gallon.

Williams estimates that $150 billion in revenues will be received in the first year of the tax. Since the purpose of William's gasoline tax plan is to reduce the demand for gasoline, not to generate increased revenues, the revenues received from the tax would be rebated directly to the consumer. Williams believes that the consumer could use the rebate to buy more fuel efficient cars which he projects will be getting more than 40 miles per gallon in the 1980's.

Williams suggests rebating the gasoline tax revenues to all adults, which could be done by annually adding a line to the individual income tax form where the taxpayer would indicate the number of adults in the household. Although not all people would normally file income tax forms, Williams' plan would provide everyone with an incentive to do so. Williams proposes that low income households should receive a "prebate" (although he does not specify the method of payment) so that they would not have to wait until the end of the year to get their tax relief.

Each individual would receive a $730 rebate. At that rate Williams estimates that the average household could avoid the impact of the tax by reducing annual gasoline consumption by 25 percent to 770 gallons per year. Such a reduction could be achieved either by driving less or by using a more fuel efficient car.

Williams suggests that special attention should be given to those businesses which are heavily dependent on motor fuel, that is, taxi companies. Such businesses should be allowed to deduct from their corporate income taxes actual gasoline taxes paid on some fraction of their total gasoline consumption.

E. JOHN KENNETH GALBRAITH'S ENERGY STAMP PROGRAM[28]

Galbraith proposes that gasoline prices at the pump should be raised to an unspecified penalty level by the imposition of a tax. Galbraith suggests that a tax of $5 or more a gallon would not be unreasonable. Consumers would pay the higher pump price, except that the Government would distribute stamps, similar to food stamps, to licensed drivers that would allow a basic purchase of gasoline for household and pleasure driving at present prices. Galbraith does not define this "basic purchase" of gasoline in terms of any particular essential uses, such as driving to work. The stamps would be valid for 1 year, thus giving consumers an opportunity to hold surplus stamps against emergencies. Although the stamps could be sold on the white market, the incentive to buy stamps would be limited. This is so because under a stamp plan, gas could be sold (although at a penalty price) to a driver even if he presented no stamps, while under a coupon plan gas could not be sold without the presentation of a coupon for the number of gallons desired.

There are no estimates of the fuel savings from the plan, although the size of the possible tax suggests it would be significant. If gas prices were quadrupled to a $5 level, the revenues could be as high as $350 to $400 billion a year initially. It is not clear what use would be made of the net revenues from the tax after the cost of the stamps had been deducted.

Galbraith projects that the administrative cost to issue the stamps and check against claims would be hefty. Additional employees would be required at the post offices, banks, and the regional offices of the Department of Energy.

Under Galbraith's system, middle income persons are protected, while the wealthy and anyone in need may always get more gasoline by paying the higher price. A further reduction of gasoline demand can be achieved under Galbraith's system by either reducing the basic stamp allocation or raising the penalty price.

F. THE UNITED AUTO WORKERS UNION "GASLINE"

The UAW "gasline" plan is very similar to John Kenneth Galbraith's energy stamp program. The plan is described in a UAW statement, dated July 11, 1979, responding to DOE's proposed changes in the retail gasoline price regulation. "Gasline" (a combination of the words gasoline and lifeline) consists of a two-tiered retail pricing system for gasoline. The lower price gasoline can be obtained with the use of stamps. The higher price gasoline can be obtained only by paying cash.

Stamps would be issued by the Government through banks or post offices to every individual over, 16, or, in the alternative, every licensed driver. The stamps would permit the purchase of a specified volume of gasoline at the lower price. The allocation of stamps would be based on predetermined geographical needs which reflect the consumer's essential use of gasoline. The stamps would be purchased monthly and would have a life of 6 months.

The basic difference between the Galbraith stamps and the UAW stamps is that Galbraith's stamp would reduce the cost of the gas but would still require some cash outlay at the pump, whereas the UAW stamps would require payment in full at the time the stamps are purchased and then no extra charge at the pump.

There would not be any limit on how much gasoline people could purchase, but only a limit on how much they can receive at a lower price through the use of stamps. UAW envisions a white market for stamps, but feels that because gasoline would be available at the higher price, there would be less incentive for consumers to purchase stamps than there would be to purchase ration coupons under a plan like the President's coupon system.

The gasoline retailer would use the stamps to pay the wholesaler for the amount of gasoline purchased by stamps. Any wholesaler who collects a disproportionate number of stamps, whether too many or too few, would be able to receive from the Government an amount of money which would equal his actual cost of gasoline. This "clearinghouse" operation is similar to the crude oil entitlements program.

G. THE TAX PLANS—AN OVERVIEW

Each of the tax plans discussed above starts from the proven notion that higher prices will decrease demand. Some plans (such as the President's) involve a minimal tax—one so small that the impact on overall consumption levels is very slight. Others (such as Galbraith's)

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are based on major tax increases that would create a wholly new perception of buying gasoline—and would undoubtedly breed resistance in consumers in the early stages. Some middle ground seems preferable, at least at the start, since the tax can always be increased slowly as the need for conservation dictates.

Except for the President's import fee plan, all the proposals make some effort to lighten the burden of the tax on the American people. Several of the plans would return the proceeds to adults generally, without reference to whether they buy gasoline or own cars. Other plans are geared more directly to gasoline usage, either through car ownership or drivers' licenses.

At least three plans (Galbraith's, Senator JOHNSTON'S and the UAW's) attempt to do rough justice by deciding what are people's essential gasoline needs, and relieving the tax burden for those gallons. Each of these, however, has some undesirable features. The Johnston plan might bog down in the calculations of who gets what ration rights. Those decisions are the most sensitive and most political ones. To have to make judgments such as those for every vehicle owner turns what could be a relatively simply system into a much more complex one. A preferable system might be one in which certain assumptions are made based on the average needs of American drivers, subject to adjustment in those few cases where real hardship occurs.

The Galbraith and UAW plans share some of the same problems. While a stamp plan may be somewhat more easily administered than coupons, stamps are still a new "currency" that must be handled, safeguarded, honored, and negotiated by banks, consumers, and those at all levels of the gasoline supply chain. They also restrict the consumer's ability to make reasoned choices with his or her money, since they are only negotiable for gasoline and not for bread or milk. Admittedly, the stamp plans presume a white market to convert stamps into dollars, but that involves both transaction costs and a degree of sophistication for consumers to take full advantage of the system.

Existing payment mechanisms that rely on dollars rather than a new form of currency would seem to reduce the delay and uncertainty inherent in stamp or coupon plans. Therefore, the plans that put money in most peoples' pockets each payday through changes in withholding levels seem faster and ultimately more equitable to those who would choose to spend their money on other needs.

The plan presented by the Banking Committee staff attempts to address these problems, while retaining some of the more desirable feaures of the plans already discussed.

H. THE HOUSE BANKING COMMITTEE STAFF PROPOSAL

For a variety of reasons, this proposal follows a tax and rebate format. Coupon systems have some attractive features such as predictability and fairness, but they are administratively unwieldly, slow to take effect and laden with transferable and counterfeitable paper. Price increases, while the simple, do-nothing approach, are fundamentally unfair to those who have a bonafide need for a certain basic level of motor fuel. Taxing schemes that do not provide for a reasonable rebate suffer from the same objections. Some rebate plans discussed in the preceding section are soundly based, but each has some flaw. The staff proposal is administratively simple, will yield concrete energy savings, and provides relief for essential users of motor fuels.

The plan includes the following features:

First. A motor fuels tax of at least 75 cents would be imposed (at today's costs, this would bring the cost of fuel to around $2 and represent a 60-percent increase in the pump price.[29] This tax would be adjusted to keep it constant in real terms over time.

Second. Everyone would pay the tax at the pump, or when motor fuel is purchased in bulk (as for example for agricultural uses).

Third. Each person (up to a limit of two per household) subject to withholding of Federal income tax (some 77 million persons) would be granted a reduction in Federal income tax withholding equal to the tax on 7 gallons of fuel a week, provided there is at least one vehicle registered in that person's name or assigned for that person's use for work-related travel by another member of the household who owns the car.[30] This seven gallons is intended to reflect an allowance for essential driving, basically commuting to and from work. If a particular household has an essential need that exceeds the base amount, as for extra-long commuting, documentation supporting that need would be submitted to the IRS and would be added to the withholding reduction for each payday—weekly, monthly, or whatever, The documentation would need to be resubmited at least yearly to qualify the household for the extra withholding reduction.

Fourth. Each taxpayer would see the amount of increased income (via decreased withholding) on the pay slip received at work, and a special box would be created on the annual W–2 form to reflect the total year's withholding credit for the gas tax.[31]

Fifth. A tax credit equal to the amount of withholding credit for the household will be allowed on the 1040 or 1040A form.

Sixth. Workers who file 1040 or 1040A forms and who are not subject to withholding will receive the same basic tax credit on April 15 as do those subject to withholding (i.e. 364 gallons per year, plus any proven justifiable additional amount for extraordinary essential need). Any of these workers who file quarterly estimated tax returns can deduct the tax credit for that quarter, and therefore get the benefit of the extra income at that time.

Seventh. Business and agricultural uses will earn tax credits on corporate or other tax forms. Consideration should be given to requiring a certification that credits claimed for these purposes are in excess of any credits claimed on individual income tax returns.

Eighth. Persons who do not file income tax forms but who may have a valid commuting need will receive notice at the pump and at other public locations of the program and will be advised to contact either DOE or the Federal agency providing them with income assistance for the appropriate forms. These people would receive checks at least quarterly, and if possible in connection with other Federal assistance payments that occur more frequently than quarterly. They would receive the basic 7 gallon per week tax rebate, plus any provable essential use above that, provided they could prove ownership of a registered vehicle.

This plan is administratively simple, in that it relies on existing income mechanisms to the extent possible. It also includes a base line consumption figure of 7 gallons per week (avoiding requiring all drivers to certify their essential use), while also retaining a way to deal with extraordinary use situations. It may in some cases overcompensate those who use less than the baseline amount, but that can be corrected in subsequent years by adjusting the baseline amount.

Predicting how much motor fuel will be saved under this plan cannot be done with great precision. There is no absolute agreement on what sensitivity motor fuel sales have to price (its "price elasticity"), and the calculation is complicated by the income effect of the dollars flowing back to consumers through the rebate. Some of those rebate dollars will probably be used for the purchase of gasoline, but many may be used for other purchases as well. At any rate, it is not correct to say that consumers getting the rebate will consider their first 7 gallons as costing $1.25, and all gallons above that $2. Consumption of even the first 7 gallons will likely be affected to some degree by the increased price.

In the medium term (by the end of the first year of rationing) there is general agreement that if gas prices double, consumption would drop by 15–25 percent.[32] Since the recommended plan increases gasoline prices by 60 percent, the impact on consumption by the end of the first year would be between 9 and 15 percent, or between 630,000 to 1.05 million barrels of gasoline per day.[33]

The impact on diesel is less certain because so much of diesel use is for commercial purposes, rather than for personal use.

It is also unclear how much these fuel savings will affect the amount of oil America imports. Energy Secretary Duncan has said that "every barrel of oil that we conserve means one less barrel of oil that we import."[34] The decision whether the marginal barrel of oil is an imported or a domestic one will be made by oil companies based on the economic benefits they see from the choice. Without Federal limitations on the amount and types of imported oil, and without Federal control on domestic production decisions, some observers believe that there can be no guarantees that the current dependence on foreign sources will not continue. Import quotas would seem to be the proper means of assuring that gasoline conservation would result in equivalent import decreases.

The revenue effect of the proposal is

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significant. At 75 cents per gallon, and at the current rate of consumption, the plan would raise approximately $80 billion in the first year, $60 billion of which is attributable to personal use of autos. For this analysis we should put aside for the moment the $20 billion related to commercial uses (which we can assume will be completely returned via tax concessions), and focus on personal use. With a weekly rebate valued at $5.25 (7 gallons times 75 cents), if all of the approximately 100 million American workers were given the basic rebate, the total rebate for the year would be approximately $27.3 billion. Deducting *this $27.3 billion from $60 billion total* rebate revenues for personal use leaves $32.7 billion in the first year in the Treasury for use as Congress might see fit (for example, to reduce the budget deficit, fund specific programs related to energy conservation, or mitigate the impact of the tax on severely disadvantaged groups).

The 7 gallons per week allows the average car to go 98 miles a week (14 mpg times 7 gallons). For 10 work trips a week, this means that work trips up to 9.8 miles each way could be accommodated. Census Bureau studies of work travel in 41 metropolitan areas in 1975 and 1976 showed that the median distance from home to work did not exceed 9.8 miles for any of the 41 cities. In many cities the median distance was substantially less than that distance, and the median for all 41 cities was 7.5 miles.[35]

A recent FHWA study shows that the average household travels 2,503 vehicle-miles per year for purposes of earning a living. This excludes trips to "return home," and so in effect is the one-way distance to get to work.[36] The average 14 mpg car can go 5,096 miles per year on 7 gallons a week, or nearly exactly double the annual total for one-way work trips in the FHWA study. This means that 7 gallons is a reasonable approximation of work travel per household.

By restricting itself to workers who own cars or can have cars assigned to them, the plan does not directly address the needs of workers who take other means of transportation to work. Since the poor tend to own fewer cars than the rich, and since some persons cannot use a personal car because of a handicapping condition, the plan does not solve everyone's transportation needs. It is not the intent of the plan, however, to insure equivalent commuting opportunities for all workers. Rather, it is to insure that enough fuel is available for work trips for those who may use a car, while encouraging consumers to conserve fuel by cutting back other uses. One of the possible ways Congress may decide to use the net revenues from the motor fuel tax is for improving transportation for the poor, for handicapped persons, and for those who live in rural areas where alternative mass transit is not now readily available.

FOOTNOTES

[1] Energy Information Administration, U.S. Department of Energy, Monthly Energy Review, April 1980, p. 28; pp. 32–33. Imports today represent nearly twice as big a percentage share of U.S. oil consumption as they did just a decade ago. In 1970, oil imports made up 24 percent of U.S. consumption; by 1979 that percentage had risen to 46 percent of the U.S. consumption. Harvard Business Review, Vol. 58, No. 1, Jan.-Feb. 1980, p. 58 (Exhibit 1).

[2] A Subcommittee of the House Ways and Means Committee, on May 14, 1980, ordered reported a resolution disapproving this oil import fee.

[3] American Automobile Association News Release, dated April 25, 1980; American Automobile Association News Release, dated May 17, 1979, reprinted in Hearings before the Subcommittee on Economic Stabilization of the Committee on Banking, Housing and Urban Affairs, U.S. Senate, May 22 and June 6, 1979, pp. 87–91.

[4] From May 1979 to February 1980, motor gasoline supplied averaged 6.89 million barrels per day, compared with 7.50 million barrels per day during the year earlier (May 1978 to February 1979), an 8.13 percent reduction. *Monthly Energy Review*, April 1980, p. 34.

[5] See a Conference Board Survey discussed in its publication *across the board*, February 1980, p. 69, in which over 50 percent of consumers surveyed favored gas rationing, while 10 percent favored higher gas prices, as a means of saving energy. The question involving higher gas prices did not suggest that there might be rebates to offset higher prices on gas used for essential driving.

[6] Federal Highway Administration, U.S. Department of Transportation, *Monthly Motor Gasoline Reported by States*. As yet unpublished December 1979 figures show usage of 7.136 million barrels per day during December, and a cumulative daily average for calendar 1979 of 7.36 million barrels.

[7] U.S. Department of Energy, *Transportation Energy Conservation Data Book*, Edition 3, Feb. 1979, Oak Ridge National Laboratory, (hereafter *Data Book*), Table 2. 8, p. 2–15.

[8] Federal Highway Administration, U.S. Department of Transportation, *Highway Statistics 1978*, (hereinafter *Highway Statistics*), Table MF–25, p. 11.

[9] *Monthly Energy Review*, April 1980, p. 30.

[10] *Data Book*, Table 1.1, p. 1–13; Table 1.8, p. 1–27; Table 1.59, p. 1–102. Because of multiple ownership of cars, the average household drives 16,000 miles a year. *Data Book*, Table 1.59, 1–102. More recent DOT figures (from 1977) show a lower per car and per household usage than other studies have shown. According to these recent figures, the average annual mileage per vehicle is 8,700 miles, and the average household travels 11,670 vehicle miles per year. *Preliminary National Personal Transportation Study Results*, FHWA release, April 1980, p. 2.

[11] *Highway Statistics*, Table VM–1, p. 47.

[12] *Highway Statistics*, Table VM–1, p. 47.

[13] Source: Federal Highway Administration, U.S. Department of Transportation, *Nationwide Personal Transportation Study*, "Purposes of Automobile Trips and Travel," Report No. 10 (May 1974), Table 1, p. 13.

[14] More recent (1977) FHWA data, just released in preliminary form, suggest that consumption patterns may have changed somewhat in the eight years since the earlier survey. FHWA now adds a category of travel called "return home" to reflect that trips often have multiple purposes. This means, however, that the amount of travel actually attributed to earning a living is reduced (as shown in the following chart), even though the primary purpose, or one of the primary purposes, of the "return home" trip in many instances is to bring a worker home from the job.

Trip purpose	Vehicle miles of travel (per household) Annual	Daily	Portion of total (percent)
Earning a living[1]	2,503	6.9	21.4
Family and personal business	1,910	5.2	16.4
Civic, educational, and religious	335	.9	2.9
Social and recreational	1,588	4.4	13.6
Return home	4,561	12.5	39.1
Other	773	2.1	6.6
Total	11,670	32.0	100.0

[1] Excludes those who work at home.

Source: Federal Highway Administration, "Preliminary National Personal Transportation Study Results," released April 1980, table D.

[15] On the East Coast, allotments were for 12 gallons a month beginning in November 1942, later reduced to 6 gallons a month, with more available on a showing of occupational need. See Henderson, Carter, *The Inevitability of Petroleum Rationing in the United States*, A Princeton Center for Alternative Futures, Inc. Occasional Paper, April 1978, p. 23.

[16] Estimate cited in Gulick, Frances, *U.S. Experience with Voluntary and Mandatory Rationing of Gasoline and Fuel Oil During World War II*, reprinted in 119 Cong. Rec. pp. 40168–40175, at 40174.

[17] There was significant concern expressed in the House on whether the Administration plan gave enough importance to the historical use in some states, rather than simply vehicle registrations, in allocating ration rights to the States. In a series of relatively late compromises under the pressure of the statutory deadline for Congressional review of the plan, the Administration changed the formula, but lingering confusion helped cause the plan's defeat.

[18] 44 Fed. Reg. 70799–70858 (December 10, 1979). In this December plan, allotments were to reflect differences in average fuel consumption between States, rather than simply number and type of vehicles; businesses would receive allotments based on historic use, rather than on number of vehicles; the Postal Service, taxicabs and snow removal were added to those receiving priority treatment in allocation of supplies (others include the Defense Department, emergency services, sanitation services, public passenger transportation services and energy production activities). Farming and off-highway vehicles would also get supplemental allotments. Rental cars and private freight hauling firms were also expected to receive priority status.

[19] Estimate cited in Hearings before the Subcommittee on Energy Regulation of the Committee on Energy and Natural Resources, United States Senate, 96th Cong., 1st Sess., Feb. 5, 1979, p. 53. The personnel estimates are not new positions but are primarily reassignments of existing personnel, DOE said.

[20] Alvin L. Alm, who was Assistant Secretary for Policy and Evaluation of the Federal Energy Dept. from Oct. 1977 to Oct. 1979, is a Fellow of Harvard University's Energy and Environmental Policy Center; William H. Hogan, Professor of Political Economy is Director of the Energy and Environmental Policy Center. Their proposal appeared in the New York Times of March 26, 1980, on the Op Ed page.

[21] For a description of H.R. 6860, see Congressional Quarterly Almanac, Vol. XXXI, 1975, pp. 211–215.

[22] The proposal is described in Congressional Quarterly Almanac, Vol. XXXIII, 1977, pp. 714–718.

[23] The program was announced formally in Proclamation 4744, issued Apr. 2, 1980. See

Weekly Compilation of Presidential Documents, Vol. 16, Number 14, p. 592. The program is encountering significant difficulties, both in court and in Congress, and may not take effect for some time, if at all.

[24] Statement of Charles W. Duncan, Jr., Secretary of Energy, before the Subcommittee on Trade of the Committee on Ways and Means, and the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce, House of Representatives, April 24, 1980, p. 2.

[25] The Anderson plan is contained in H.R. 6071 and 6072, introduced on December 10, 1979 and referred to the House Ways and Means Committee.

[26] There are no firm elasticity figures for motor fuels. In general the short term impact of an increased price will be low because people will not be able to change their habits dramatically. As time passes the effect of the fee would be greater, probably in the range of —.15 to —.25 by the end of the first year (meaning that a 100 percent increase in price would yield a 15–20 percent decrease in consumption).

[27] This plan is described in the Washington Post of March 26, 1980 on the Op Ed page, in a piece prepared by Jessica Tuchman Mathews of the Post's Editorial Page staff.

[28] John Kenneth Galbraith, "Oil: A Solution," *New York Review of Books*, September 27, 1979, p. 3.

[29] The tax would include gasoline and diesel fuel. Home heating oil would not be affected by the price increase.

[30] There has been a substantial amount of debate about whether ration systems should award rights or rebates on the basis of driver's licenses or car registrations. Those favoring driver's licenses say that using car registrations favors multi-car families and will cause people to hold on to old cars that are driven very little just to increase the ration allotment. Those preferring car registration say that cars are a more accurate indicator of gasoline use than are driver's licenses (since many people who do not drive have licenses for identification purposes), and that duplicate or false driver's licenses are easier to obtain than car registrations. This staff recommendation relies on car registrations because of the greater accuracy of that basis in predicting usage, but it limits the eligible cars to two per household unless extraordinary essential need is demonstrated. While car ownership (or assignment) must be proved by the first two wage earners to qualify for the basic withholding reduction, any additional extraordinary essential use is not predicated on how many cars are owned in the household but on the actual need for gasoline to operate those cars for work-related purposes.

[31] The tax on 7 gallons of gasoline at $.75 per gallon is $5.25. Each week's Federal income tax withholding would be reduced by this amount (longer pay periods would require the appropriate multiple of this amount to be deducted). If a worker would normally have less than $5.25 withheld each week for income tax purposes, the remainder could be credited against Social Security or other retirement withholding. As an example of whom this would affect, a single person claiming one withholding allowance for income tax purposes would need to earn at least $82 per week to have at least $5.25 withheld for Federal income tax. If the person earned only $75 a week, the income tax withholding would be only $4.30 but Social Security withholding would be $4.60 so the two combined could easily cover the $5.25 gas tax rebate. This hypothetical single person with one allowance would need to earn less than $58 a week to have Federal income tax and Social Security withholding, combined, equal less than $5.25 a week.

A married person with a child, claiming 3 withholding allowances for Federal income tax purposes, would need to earn at least $140 a week to have income tax withholding cover the entire $5.25 rebate.

One alternative to using Social Security as a backup when income tax withholding is less than $5.25 per week is to defer the difference until either the 1040, 1040A or a quarterly estimated tax form is filed. This has the unfortunate result of postponing enjoyment of the rebate for those who have the lowest income or who have the largest families and take the most withholding allowances. On the other hand, if Social Security withholding is involved, the accounting problems for the revenue loss become more complicated. On balance, it seems preferable to use income tax, with Social Security or other retirement systems as a backup, to avoid lengthy delays in disbursing benefits and to avoid the even less attractive alternative of having to write special checks, separate from existing withholding, to compensate those whose withholding is too small. In very rare cases, some individuals who do not have any withholding may need to have checks issued periodically in the amount of the rebate.

[32] This means that a reasonable elasticity range in the medium term (by the end of the first year) is —.15 to —.25. In the very short run (0–3 months) sales patterns would not change so dramatically, and an elasticity of —.1 is more likely (a doubling of price would yield only a 10 percent decrease in consumption). Over the longer term (3–5 years) people could more easily change their consumption patterns (such as buying more fuel efficient cars) and the elasticity would be —.3 or even more.

[33] This calculation applies the elasticity figure to the entire seven million barrels per day of gasoline use, rather than just to the portion that is not affected by the rebate. To the extent the income for the rebate is applied to gasoline purchases, the savings would be somewhat lowered.

[34] Statement of Charles W. Duncan, Jr., Secretary of Energy, before the Subcommittee on Trade of the Committee on Ways and Means, and the Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives, April 24, 1980, p. 4.

[35] Bureau of the Census, U.S. Department of Commerce, *Selected Characteristics of Travel to Work in 21 Metropolitan Areas: 1975*, Table F, p. 5, and *Selected Characteristics of Travel to Work in 20 Metropolitan Areas: 1976*, Table I, p. 8.

[36] Federal Highway Administration, *Preliminary National Personal Transportation Study Results*, Released April 1980, Table D.

CONGRESSMAN YATRON BALANCES DOMESTIC AND FOREIGN AFFAIRS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, one of our most respected colleagues in the House of Representatives is the Honorable GUS YATRON of Pennsylvania, now serving his sixth term in the House.

Mr. Speaker, GUS YATRON is not only a vigorous champion of the people of the Sixth District of Pennsylvania, but he serves the Nation as chairman of the important Subcommittee on Inter-American Affairs of the House Committee on Foreign Affairs.

Mr. Speaker, I insert at this point in the RECORD the text of a most interesting article, "Yatron Balances Domestic and Foreign Affairs," published in the Hellenic Chronicle, a Boston publication, on May 1, 1980:

YATRON BALANCES DOMESTIC AND FOREIGN AFFAIRS

Although considered as a possible candidate for U.S. Senator from Pennsylvania, Gus Yatron is content to continue to serve and seek a seventh term as congressman from the 6th district.

Congressman Yatron is frequently seen and widely known in the district, which covers Berks, Schuylkill, and a portion of Northumberland counties. His weekend treks back to the district have kept him in close touch with his constituents and he has been praised for his ability to stay personally involved with the problems and concerns of his individual constituents.

In Washington, however, Gus is known not only as a representative from Pennsylvania, but as a concerned and active member of the House Foreign Affairs Committee.

Yatron has chaired the Committee's Subcommittee on Inter-American Affairs since 1977. The subcommittee's jurisdiction is the entire western hemisphere, including Latin America, the Caribbean, Mexico and Canada. He also retains a seat on the Subcommittee on Asian and Pacific Affairs, which overseas circumstances in the Far East. Both as a member of the Foreign Affairs Committee, and as a Representative of Greek ancestry, Yatron has continued to be an outspoken supporter of the rights of the Greek Cypriot refugees.

The ever-increasing instability in Central America and the Caribbean, has become a priority for the congressman. He has stated that "the Cubans are thriving on instability in the small islands. They aren't attempting to export revolution as in the past, but are achieving their purposes by agitating the unemployed and labor unrest to create discontent."

The Reading Congressman pointed out that the Cubans are able to respond faster by sending doctors, teachers, and carpenters into the area. "They get a foothold before we process the request. We must take action to combat these activities by reassessing our programs and fighting fire with fire in the form of greater cultural exchanges, more broadcasts beamed to the area and providing assistance quickly in times of need."

These concerns over the quickly spreading Cuban influence in the hemisphere have prompted the congressman into several streams of action. The early part of 1980 took the congressman and a high level delegation to South America and the Caribbean, in an attempt to look first-hand at the problems the region is experiencing and to provide an outlook on what steps Congress should take in this session to become more involved and more aware of this ever-increasing concern. Meetings were held with key officials and leaders of the private sector, including the presidents of Venezuela and Costa Rica and the Prime Minister of Barbados. The Congressman cited the benefit that these study missions provide in understanding the needs of the people and in becoming familiar with the region that the subcommittee is concerned with on a day-to-day basis.

In a further effort to gain insight into the Cuban vehicle for spreading revolution in the region, the subcommittee has been deeply involved in hearings on the Cuban-Soviet ties in the western hemisphere. These hearings have provided various intelligence agencies the opportunity to bring members of the subcommittee up to date on the Cuban and Soviet activities in Central America and the Caribbean, as well as activities in the United States. Chairman Yatron brought together

a team from the Defense Intelligence Agency, the Central Intelligence Agency, the Federal Bureau of Investigation and representatives from the State Department, in four days of hearings.

Yatron has also taken a hard look at two issues concerning the people of the United States: narcotics trafficking from Latin America and the search for alternative sources of energy.

On the subject of the flow of narcotics in the western hemisphere, the subcommittee has devoted many hearings on international narcotics control. Two members of Yatron's subcommittee are also members of the Select Committee on Narcotics.

Realizing the strain that increasing energy costs have on the individual in his district, as well as the public at large, Congressman Yatron has become deeply involved in the international cooperation necessary for the western hemisphere to become independent of OPEC and Mid-Eastern oil.

Yatron's subcommittee has joined with other subcommittees for the purpose of providing a platform for the Department of Energy representatives and other involved agencies to discuss international energy cooperation.

"While we are all concerned with the soaring cost of energy and its effect on our country, we must look at the energy crisis in a much broader context and weigh the implications for the international community, particularly the developing world. It is my feeling that the eventual resolution of the energy crisis will be the result of an international effort," Yatron said, in an opening statement during a hearing before his subcommittee and the Subcommittee on International Economic Policy and Trade and Energy Development and Applications of the Science and Technology Committee.

In continuing to monitor the ever-changing situation in Central America, Chairman Yatron has held hearings to update foreign policy objectives toward Central America, the Caribbean and specifically, Nicaragua. He has also chaired hearings on specific topics of concern involving arms control in the hemisphere, illegal aliens, the problems of middle income countries, and outstanding claims against the Castro government for nationalized companies.

Although the Latin America region occupies a great portion of Yatron's time and efforts, he also manages to keep an eye on the circumstances arising concerning the Greek-Turkish fight over the island of Cyprus. Yatron has continually come out in support of the Cyprus refugees' rights to return to their homes and villages.

He was instrumental in putting through an amendment to the 1981 Foreign Assistance Bill to maintain aid to the government of Cyprus at the 1979–80 level of $15 million when the Administration had requested a cutback to $2 million.

Yatron has cited the need to relieve part of the heavy burden placed on the Cyprus government to care for the 200,000 refugees left homeless by the Turkish invasion of Cyprus in the summer of 1974. He stated that health care, housing and educational needs were at an ebb, and the burden has been carried by 30 percent of the economy.

Providing assistance to the half-million constituents he serves in Pennsylvania is a full-time job for Gus Yatron, but as a concerned Congressman and individual, he has made time to give attention to the pressing issues of the international community. His attentions to Cyprus, Asia and especially Latin America and the Caribbean, however, have not been apart from his domestic concerns, but rather in conjunction with them, as he sees economic and political stability in the western hemisphere as necessary to the security of the United States.●

RAOUL WALLENBERG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WEISS) is recognized for 10 minutes.

Mr. WEISS. Mr. Speaker, I am introducing today a concurrent resolution to honor Raoul Wallenberg. The resolution requests State Department action to investigate fully his status and, if he should be alive, to secure his release.

Perhaps Raoul Wallenberg is an unfamiliar name today. But during World War II his name was a household word to thousands of Hungarian Jews who faced the death camps.

Raoul Wallenberg was sent by the Swedish Government to Hungary in the summer of 1944 as the first secretary of the Swedish delegation at the request of the American War Refugee Board, which was founded in January 1944.

In Budapest he used the tools of a diplomat to save 90,000 lives. Beginning in July 1944, Raoul Wallenberg actively confronted the Nazis over the fate of 20,000 Hungarian Jewish citizens. He issued them protective Swedish passports and conferred on them the status of Swedish citizens in order to insure their free passage out of Hungary. He assisted an additional 70,000 Jews through collaborative efforts with other neutralist representatives in Hungary.

Then on Christmas eve, 1944, the Russians invaded Budapest to defeat Germany's occupying forces. On January 13, 1945; the Soviets placed Raoul Wallenberg into "protective custody," apparently unaware of Wallenberg's true mission in Hungary. When inquiries were made to the Russians about the whereabouts of the Swedish diplomat there were pleas of ignorance until February 6, 1957, when the Soviets finally agreed to search the archives of Lubyanka prison. They discovered a July 17, 1947, report stating that a prisoner known as "Wallenberg" had died in his cell the previous night of a heart attack.

This news was surely a grave disappointment to the many individuals who owed Wallenberg their lives. Indeed the reports, if true, mean a significant loss to us all. In recognition of his great humanitarian feat, Albert Einstein recommended Raoul Wallenberg for the Nobel Peace Prize.

Periodically, however, there have been indications that the report of Raoul Wallenberg's death are untrue. These indications are based on both coincidental and direct observations, yet provide evidence that he might still be alive. Alexander Solzhenitsyn, in his famous book the "Gulag Archipelago," describes an encounter in prison with a Swede who has some similarity in background to Wallenberg. However there is skepticism by both Solzhenitsyn and historians that this individual could really be Wallenberg. The most concrete evidence of Wallenberg being alive was discovered as recently as December 1978. At that time a former Polish citizen, Abraham Kalinski who presently lives in Israel, provided a detailed account of Wallenberg's years in prison during the fifties, and also claimed that a Russian Jew named Jan Kaplan reported 5 years ago to him that he had seen a Swede in the Butyrka prison.

This evidence, combined with other citings of individuals fitting Wallenberg's description, have led many to believe that Raoul Wallenberg may still be alive in the Soviet Union. As a result a Free Raoul Wallenberg Committee has been formed by prominent Swedish and American individuals. The Swedish Raoul Wallenberg Association and the International Sakharov Committee will be holding an informal hearing soon to analyze this information and decide on further action on Wallenberg's behalf.

I am hopeful that my colleagues will join me in support of action to determine the fate of Raoul Wallenberg by joining me in this concurrent resolution. In this way the people of the United States, having initially gained Raoul Wallenberg's assistance through the War Refugee Board, can partially honor their obligation to this hero of the holocaust.

A copy of the resolution follows:

H. CON. RES. 341

Concurrent resolution to honor Raoul Wallenberg and to request that the Department of State take all possible action to obtain information concerning his present status and secure his release

Whereas in January 1944 the War Refugee Board was established by the United States to organize rescue operations to free persons being persecuted during World War II;

Whereas the War Refugee Board requested Sweden to send a representative to Hungary;

Whereas the Swedish representative, Raoul Wallenberg, is considered responsible for directly saving the lives of 20,000 Jewish citizens in Hungary through issuance of protective Swedish passports beginning in July 1944;

Whereas Raoul Wallenberg is recognized as saving indirectly the lives of an additional 70,000 Jewish citizens in Hungary through collaborative efforts in the latter half of 1944 with neutralist representatives in Budapest and the Jewish community in Hungary;

Whereas Raoul Wellenberg was taken into Soviet "protective custody" on January 13, 1945, and later imprisoned in Moscow at least until July 17, 1947, the date of the last official notice of his whereabouts;

Whereas in 1949 he was nominated by Albert Einstein for the Nobel Peace Prize;

Whereas reports from the Soviet Union, as recent as May 1, 1978, suggest that Raoul Wallenberg is alive;

Whereas documents released by the Swedish Foreign Ministry in January 1980 indicate diplomatic efforts by the Swedish Government have not fully clarified the status of Raoul Wallenberg: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress honors Raoul Wallenberg for his outstanding work on behalf of those persecuted in Hungary during World War II, and requests the Department of State to take all possible steps to discern from the Soviet Union the whereabouts of Raoul Wallenberg and, if he is alive, to secure his return to his native country.

□ 1830

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

● Mr. OTTINGER. Mr. Speaker, on Thursday, May 15, a previously scheduled hearing of the Subcommittee on Energy Development and Applications which I chair, required me to leave prior to adjournment and miss votes on rollcalls Nos. 238, 239, an amendment by the gentleman from California (Mr. PANETTA) to the defense authorization which failed by a vote of 115 to 253, and the pro forma final passage of the conference report on the food stamp supplemental appropriation which passed 316 to 36. Had I been here, I would have voted "aye" on both amendments.●

CUBAN INDEPENDENCE DAY OF 1980 AND MESSAGES HONORING CERTAIN AMERICANS BY THE CUBAN CRUSADE

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PEPPER. Mr. Speaker, Crusade 1980 honors American patriot the Honorable Speaker John W. McCormack and Cuban patriot Gen. Generoso Campos Marquetti, His Excellency President Jimmy Carter and administration; the Honorable Speaker THOMAS P. O'NEILL, JR., Congressmen CLAUDE PEPPER, DANTE B. FASCELL, JOHN BUCHANAN, JR., Senators EDWARD KENNEDY, RICHARD STONE and all other Members of the House and Senate.

Crusade 1980 sends the following message on Cuban Independence Day:

Cuban Independence Day is also Cuban American and Latin-American Solidarity Day since it is the very first day of Hemispheric Brotherhood. In order to reflect the true sentiments of the majority of Cubans and Americans, who once having refreshed their memories as to the real historical facts that remain unchallenged today, we expose them for the universe to hear and see. The United States and its people in joining the Cuban patriots in their fight for freedom against Spanish tyranny and oppression of those days, did not exact their pound of flesh and colonize Cuba, as has always been and still is the case when large and powerful countries have aided small nations in their so-called freedom wars. America instead rejoiced together with Cuba on May 20th more than half a century ago celebrating their hard won freedom and aided a new democratic nation to be born, by helping them during their liberation battles and after, economically.

And today more than ever, it is necessary for our nation to point out to the world and its people, our record referring to, in all of our international dealing with any nation, small or large, we have always liberated or aided to liberate but we have never colonized.

May 20th, Anniversary of the Republic of Cuba's Liberation Day is the first and best example of the United States' fraternal behavior towards a hemispheric brother's liberation struggle, the United States is your brother and not your master. The same is true for the rest of the world.

The above statements are self-evident truths forgotten under the stress of battle against an over-aggressive opponent, who specializes in propaganda trickery, and who has enslaved nations utilizing the colours of liberation falsely.

In the name of American, Cubans, Latin-americans, and the peoples of the world at large, we challenge our totalitarian foes to produce just one May 20th in their so-called Liberation Wars of freedom throughout world.

In one word, they cannot.

May 20th, Cuban Independence Day, Cuban-American Day, or Latin-American Solidarity Day is the actual Anniversary of America's foreign policy principles, Liberate and Aid as against the Dominate by Force and Colonize policy championed by our political opposites.

Americans, our duty and moral obligation is to hammer out these truths to world opinion by celebration May 20th adequately and transmitting its strong message hemispherically and universally.

Americans, North, South, or Central stand united behind this American Universal Foreign Policy. Step forward and be counted on next May 20th.

The above is text of speech by General Generoso Campos Marquetti delivered May 19, 1966, upon his turning over of the Cuban Flag to Hon. Speaker John W. McCormack in the Speaker's Rooms, twenty-five minutes before General Campos Marquetti's death, at 94 years of age.

We must remember General Campos Marquetti's last words to Speaker McCormack which were "Give us liberty or give us death."

Signed: May 20th, 1980. Dr. Joseph R. Julia, President-Cuban Crusade; Ms. Candelaria C. Achay, President, Hemispheric Committee; Mr. Thomas Shunski, President Campaign 1980–81, Cuban Crusade; Dr. Alejandre D. Paniagua, Chairman, Hemispheric Committee Campaign, 1980–81.●

FIDEL CASTRO IS FLOUNDERING

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PEPPER. Mr. Speaker, I present an editorial from the New York Times dated Monday, May 19, 1980:

FIDEL CASTRO IS FLOUNDERING

Americans are all too aware of their past blunders in dealing with a provocative Communist Cuba. Rage yielded only to resignation as Fidel Castro taunted the Yankee colossus, exploited trouble in Africa and fanned revolt in the Caribbean. So inured did Americans become to those sounds and furies in Havana that few kept track of what they meant—which suited Fidel fine. The crucial question underlying the current turmoil over refugees is whether Mr. Castro's revolution has finally run aground.

There is compelling evidence that Mr. Castro is floundering, and for the first time in 21 years is worried about his hold on Cuba. How else explain the May Day call for an armed popular militia, as a possible counter to his Soviet-trained army? Or the enigmatic reshuffle to give himself command of the three most vital Government ministries? What kept him away from the funeral of Marshal Tito, founder of the nonaligned bloc that Castro now heads? What desperation caused Cuban jets to sink a Bahamian patrol boat and buzz an American helicopter last week?

No one knows how much fire has produced these plumes of smoke. But the smoke accumulates, and so does Mr. Castro's record of failure. It is measurable not just by the flight of tens of thousands to Florida. It is apparent in Cuba's humiliating dependence on $3 billion in annual Soviet aid, in the plague of shortages in a mismanaged single-crop economy. Havana's dependence on Moscow has had its inescapable price. After three weeks of anguished silence, "non-aligned" Cuba joined other Soviet satellites in support of the Soviet invasion of Afghanistan, costing Havana a seat on the United Nations Security Council.

The disarray may well explain Mr. Castro's refusal to negotiate with the United States even about the safety of the fleeing Cubans. But it is reason enough for Americans to sense a possible opportunity and to keep proposing diplomatic contact that for the first time in years Havana may need more than Washington.

Three years ago, the two countries opened "interest sections" in lieu of embassies, organized cultural exchanges and eased travel restrictions. But Cuba balked at discussing its deployment of troops in Africa in the service of Soviet policy, its aid to Caribbean revolutionaries and agitation for Puerto Rican independence—all preconditions for trade with the United States.

Negotiating under such terms is not appeasement. Neither is an expansion of contacts with the Cuban people. When Mr. Castro let 100,000 Cuban exiles return for family visits, they brought not only the desired hard currency but also unwanted evidence of their prosperity in America. These contacts surely helped to ignite the human explosion of recent weeks.

There may lurk an opportunity in Mr. Castro's adversity. He may yet discover the benefit of pulling back from his Soviet connection toward more normal relations with Washington. But even if he fails to hear American ideas for repairing his revolution, the Cuban people may.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. SPELLMAN (at the request of Mr. WRIGHT), for today, on account of a death in the family.

Mr. LEHMAN (at the request of Mr. WRIGHT), for today, on account of having returned to Miami because of the current disturbance.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. ASHBROOK, for 30 minutes, on tomorrow.

(The following Members (at the request of Mr. WHITTAKER) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 60 minutes, today.

Mr. KELLY, for 5 minutes, today.

(The following Members (at the request of Mr. KOGOVSEK) to revise and extend their remarks and include extraneous material.)

Mr. ALEXANDER, for 15 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. REUSS, for 30 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. LUNDINE, for 5 minutes, today.

Mr. WEISS, for 10 minutes, today.

Mr. OTTINGER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the re-

quest of Mr. WHITTAKER) and to include extraneous matter:)

Mr. CAMPBELL.
Mr. KELLY.
Mr. DOUGHERTY.
Mr. LAGOMARSINO.
Mr. LEWIS.
Mr. BOB WILSON, in three instances.
Mr. DANIEL B. CRANE.
Mr. BROYHILL.
Mr. CONABLE.
Mr. ROYER.
Mr. DUNCAN of Tennessee.
Mr. HINSON.
Mr. PAUL, in two instances.
Mr. COLLINS of Texas, in two instances.
Mr. MCCLORY.
Mrs. HECKLER.
Mr. WYDLER.
Mr. SYMMS.
Mr. KEMP, in four instances.
Mr. TAUKE, in two instances.
Mr. PETRI.
Mr. QUAYLE.
Mr. PORTER.
Mr. DERWINSKI.
Mr. GRISHAM, in two instances.
Mr. SOLOMON, in two instances.
Mr. CORCORAN.
Mr. DORNAN, in four instances.

(The following Members (at the request of Mr. KOGOVSEK) and to include extraneous matter:)

Mr. ROBERTS.
Mr. ROE.
Mr. WALGREN.
Mr. ASPIN.
Mr. NICHOLS.
Mr. FROST.
Mr. WAXMAN.
Mr. WON PAT.
Mr. ADDABBO.
Mr. CAVANAUGH.
Mr. ROSENTHAL.
Mr. FAUNTROY.
Mr. WOLFF.
Mr. LONG of Maryland.
Mr. SOLARZ in two instances.
Mr. GRAY.
Mr. OBERSTAR.
Mr. GEPHARDT in two instances.
Mr. BEDELL.
Mrs. SCHROEDER.
Mrs. BYRON.
Mr. ALBOSTA.
Mr. NOWAK in two instances.
Mr. BENNETT.
Mr. SHELBY in 10 instances.
Mr. PEYSER.
Mr. PATTERSON.
Mr. RAHALL.
Mr. MCDONALD in five instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1644. An act to declare a national weather modification policy, to establish a national program of research and development in weather modification, to provide for the reporting of weather modification activities, and for related purposes; to the Committee on Science and Technology.

ADJOURNMENT

Mr. WEISS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 31 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, May 21, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4423. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice that the Army intends to waive the requirement for the examination of records by the Comptroller General in a contract with the Federal Republic of Germany for a European telephone system to support U.S. forces, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

4424. A letter from the First Vice President and Vice Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction with Union de Transport Aeriens (France) exceeding $60 million, pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

4425. A letter from the Secretary of Health and Human Services, transmitting a plan to enhance coordination of child abuse and neglect activities, prepared by the Advisory Board on Child Abuse and Neglect pursuant to section 6(b) of Public Law 93-247, as amended; to the Committee on Education and Labor.

4426. A letter from the Chairman, National Advisory Council on the Education of Disadvantaged Children, transmitting a special report entitled "The Office of Education Administers Changes in a Law: Agency Response to Title I, ESEA Amendments of 1978," pursuant to section 196(c) of the Elementary and Secondary Education Act, as amended; to the Committee on Education and Labor.

4427. Communication from the President of the United States, transmitting a report on progress toward the conclusion of a negotiated solution of the Cyprus problem, pursuant to section 620C(c) of the Foreign Assistance Act of 1961, as amended (H. Doc. 96-315); to the Committee on Foreign Affairs and ordered to be printed.

4428. A letter from the Assistant Secretary of State for Congressional Relations, transmitting reports on political contributions made by Francis J. McNeil and Theresa A. Healy, Ambassadors-designate to Costa Rica and Sierra Leone, respectively, and by members of their families, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

4429. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4430. A letter from the Secretary of Agriculture, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4431. A letter from the Administrator of General Services, transmitting a followup report on the recommendations contained in the final report of the National Commission on New Technological Uses of Copyrighted Works, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

4432. A letter from the Secretary of Health and Human Services, transmitting notice of a delay in the submission of the annual report of the National Health Service Corps for calendar year 1979, required by section 336 of the Public Health Service Act, as amended; to the Committee on Interstate and Foreign Commerce.

4433. A letter from the Comptroller General of the United States, transmitting a report on the administration and effectiveness of the Department of Energy's low-income weatherization program (EMD-80-59, May 15, 1980); jointly, to the Committees on Government Operations, Banking, Finance and Urban Affairs, Interstate and Foreign Commerce, and Education and Labor.

4434. A letter from the Comptroller General of the United States, transmitting a report on implementation of the Panama Canal Treaty of 1977 (ID-80-30, May 15, 1980); jointly, to the Committees on Government Operations, Foreign Affairs, Merchant Marine and Fisheries, and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Submitted May 16, 1980*]

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 7235. A bill to reform the economic regulation of railroads, and for other purposes; with amendment (Rept. No. 96-1035). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted May 20, 1980*]

Mr. PEPPER: Committee on Rules. House Resolution 673. Resolution Waiving certain points of order against the conference report on the bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes. (Rept. No. 96-1037). Referred to the House Calendar.

Mr. ZEFERETTI: Committee on Rules. House Resolution 674. Resolution providing for the consideration of H.R. 6515. A bill to authorize appropriations for the fiscal year beginning October 1, 1980, for the maintenance and operation of the Panama Canal, and for other purposes (Rept. No. 96-1038). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 675. Resolution providing for the consideration of H.R. 6674. A bill to amend the National Visitor Center Facilities Act of 1968 to authorize additional funds, and for other purposes. (Rept. No. 96-1039). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 676. Resolution providing for the consideration of H.R. 6075. A bill to amend the Public Buildings Act of 1959, to authorize the Administrator of General Services to issue obligations for the construction and acquisition of public buildings, and for other purposes (Rept. No. 96-1040). Referred to the House Calendar.

Mr. STAGGERS: Committee of conference. Conference report on S. 2253. (Rept. No. 96-1041). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

The bill, to provide a comprehensive system of liability and compensation for oilspill damage and removal costs, and for other

purposes (H.R. 85, as reported on May 16, 1980), was referred by the Speaker as follows:

The Committee of the Whole House on the State of the Union discharged, and referred to the Committee on Ways and Means for a period ending not later than June 20, 1980, for consideration of such portions of the bill and amendments as fall within the jurisdiction of that committee pursuant to clause 1(v), rule X.

The bill, to amend the Solid Waste Disposal Act to provide authorities to respond to releases of hazardous waste from inactive hazardous waste sites which endanger public health and the environment, to establish a Hazardous Waste Response Fund to be funded by a system of fees, to establish prohibitions and requirements concerning inactive hazardous waste sites, to provide for liability of persons responsible for releases of hazardous waste at such sites, and for other purposes (H.R. 7020, as reported on May 16, 1980) was referred by the Speaker as follows:

The Committee of the Whole House on the State of the Union discharged, and referred to the Committee on Ways and Means for a period ending not later than June 20, 1980, for consideration of such portions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(v), rule X.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASPIN:

H.R. 7388. A bill to amend the Internal Revenue Code of 1954 with respect to the definition of a cooperative housing corporation; to the Committee on Ways and Means.

By Mr. BIAGGI:

H.R. 7389. A bill to amend section 8 of the United States Housing Act of 1937 for the purpose of providing more housing alternatives for lower income persons; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CONABLE (for himself, Mr. FRENZEL, and Mr. EDWARDS of Alabama):

H.R. 7390. A bill to provide that revenue ruling 80-60 shall not require a change in the taxpayer's method of accounting for taxable years beginning before 1980; to the Committee on Ways and Means.

By Mr. GEPHARDT (for himself, Mr. DODD, and Mr. MOFFETT):

H.R. 7391. A bill to amend the Internal Revenue Code of 1954 to provide for the taxation of artists' income and estates; to the Committee on Ways and Means.

By Mr. GEPHARDT:

H.R. 7392. A bill relating to the treatment of certain expenses includible in the income of the recipient; to the Committee on Ways and Means.

By Mr. HANLEY (by request):

H.R. 7393. A bill to create an independent Office of the Special Counsel; to the Committee on Post Office and Civil Service.

By Mr. HEFNER (for himself, Mrs. HECKLER, Mr. ROBERTS, Mr. LEATH of Texas, Mr. BONER of Tennessee, Mr. GRAMM, Mr. WYLIE, Mr. SAWYER, and Mr. GRISHAM):

H.R. 7394. A bill to amend title 38, United States Code, to revise the veteran's vocational rehabilitation program, to provide a 10-percent increase in the rates of educational assistance under the GI bill, to make certain improvements in the educational assistance programs for veterans and eligible survivors and dependents, to revise and expand veterans' employment and training programs, to provide certain cost-saving administrative provisions, and for other purposes; to the Committee on Veteran's Affairs.

By Mr. MURPHY of New York:

H.R. 7395. A bill to amend the act to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce; to the Committee on Merchant Marine and Fisheries.

By Ms. OAKAR:

H.R. 7396. A bill to amend title II of the Social Security Act to provide that the widow's or widower's insurance benefits to which a disabled individual becomes entitled before attaining age 60 shall not be less than the amount (71½ percent of the deceased spouse's primary insurance amount) to which they would have been reduced if the first month of such entitlement had been the month in which such individual attained that age; to the Committee on Ways and Means.

By Mr. RINALDO:

H.R. 7397. A bill to amend the Securities Act of 1933 to increase the small offering exemption from $2 million to $5 million; to the Committee on Interstate and Foreign Commerce.

By Mr. SHUMWAY:

H.R. 7398. A bill to amend the Immigration and Nationality Act to provide for labor certification on an area-wide, rather than on a countrywide, basis for admittance of temporary agricultural laborers; to the Committee on the Judiciary.

H.R. 7399. A bill to amend the Immigration and Nationality Act to facilitate the admission of aliens for temporary agricultural employment; to the Committee on the Judiciary.

By Mr. SOLOMON:

H.R. 7400. A bill to improve the intelligence system of the United States, and for other purposes; jointly, to the Committees on Foreign Affairs, the Permanent Select Committee on Intelligence, and the Judiciary.

By Mr. THOMPSON:

H.R. 7401. A bill to amend the National Labor Relations Act to give employers and performers in the performing arts rights given by section 8(e) of such act to employers and employees in similarly situated industries; to the Committee on Education and Labor.

H.R. 7402. A bill to amend the National Labor Relations Act to give to employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes; to the Committee on Education and Labor.

By Mr. TRAXLER:

H.R. 7403. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income certain amounts received in connection with retirement as compensation for unused vacation and sick leave; to the Committee on Ways and Means.

By Mr. DORNAN:

H.R. 7404. A bill to promote the more effective use and development of the Nation's renewable energy resources by broadening and extending the Solar Heating and Cooling Demonstration Act of 1974, by improving the administration of Federal energy-related activities, and by encouraging geothermal energy development and energy conservation; jointly to the Committees on Science and Technology, Interior and Insular Affairs, and Ways and Means.

Mr. MARRIOTT:

H.R. 7405. A bill to amend section 21 of the act of February 25, 1920, commonly known as the Mineral Leasing Act; to the Committee on Interior and Insular Affairs.

By Mr. WEISS:

H. Con. Res. 341. Concurrent resolution to honor Raoul Wallenberg and to request that the Department of State take all possible action to obtain information concerning his present status and secure his release; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

473. By the SPEAKER: Memorial of the House of Representatives of the State of Hawaii, relative to passage of the Native Hawaiian Education Act; to the Committee on Education and Labor.

474. Also, memorial of the Legislature of the State of Alaska, relative to compensation for Alaska physicians who participate in the Medicaid program; to the Committee on Interstate and Foreign Commerce.

475. Also, memorial of the Legislature of the State of Alaska, relative to construction of the Dog Bay boat harbor project; to the Committee on Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BOLAND:

H.R. 7406. A bill for the relief of Guillermo Enrique Sayan; to the Committee on the Judiciary.

By Mr. DELLUMS:

H.R. 7407. A bill for the relief of Klaus Wilhelm Wendel; to the Committee on the Judiciary.

By Mr. NOWAK:

H.R. 7408. A bill for the relief of Johnny C. Reyes, doctor of medicine; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 or rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 154: Mr. STENHOLM, Mr. BENNETT, Mr. BARNARD, Mr. RHODES, Mr. ROYER, Mr. FAZIO, Mr. CAMPBELL, Mr. LEACH of Iowa, Mr. DUNCAN of Oregon, Mr. WEAVER, Mr. YATRON, Mr. FOWLER, Mr. WALGREN, Mr. BUCHANAN, Mr. ANDERSON of California, Mr. ADDABBO, Mr. WEISS, Mr. KOSTMAYER, and Mr. DANIEL B. CRANE.

H.R. 527: Mr. BINGHAM.

H.R. 1116: Mr. BEARD of Rhode Island.

H.R. 2400: Mr. EDGAR.

H.R. 2401: Mr. EDGAR.

H.R. 2493: Mr. SPENCE.

H.R. 3567: Mr. RAILSBACK.

H.R. 3985: Mr. KOGOVSEK.

H.R. 5225: Mr. CARNEY.

H.R. 5371: Mr. PORTER.

H.R. 6303: Mr. CORMAN.

H.R. 6424: Mr. COURTER and Mr. DORNAN.

H.R. 6557: Mr. ALBOSTA, Mr. BLANCHARD, Mr. BONIOR of Michigan, Mr. BRODHEAD, Mr. BROOMFIELD, Mr. CONYERS, Mr. DAVIS of Michigan, Mr. DIGGS, Mr. DINGELL, Mr. FORD of Michigan, Mr. KILDEE, Mr. NEDZI, Mr. PURSELL, Mr. STOCKMAN, Mr. SAWYER, Mr. WOLPE, and Mr. VANDER JAGT.

H.R. 6722: Mr. COUGHLIN, Mr. OBEY, Mr. PICKLE, and Mr. HARKIN.

H.R. 6735: Mr. OBERSTAR, Mr. BROWN of California, Mr. PANETTA, Mr. ADDABBO, Mr. HAWKINS, Mr. MURPHY of Illinois, Mr. WOLPE, Mr. WHITEHURST, Mr. EVANS of the Virgin Islands, Mr. ROE, Mr. PHILLIP BURTON, Mr. COELHO, Mr. PASHAYAN, Mr. GRAY, Mr. OTTINGER, Mr. HARRIS, Mr. FORD of Tennessee, Mr. DIGGS, Mr. LONG of Maryland, Mr. DELLUMS, Ms. MIKULSKI, Mr. SIMON, Mr. CORMAN, and Mr. PEPPER.

H.R. 6813: Mr. AKAKA, Mr. CARR, Mr. SEIBERLING, and Mr. BARNES.

H.R. 6822: Mr. PRITCHARD.

H.R. 6824: Mr. DICKS and Mr. PRITCHARD.
H.R. 6889: Mr. LEACH of Iowa, Mr. GORE, and Mr. LUKEN.
H.R. 7107: Mr. LAGOMARSINO and Mr. LUNGREN.
H.R. 7207: Mr. STENHOLM.
H.R. 7210: Mr. ANTHONY and Mr. COELHO.
H.R. 7211: Mr. HANCE, Mr. SYNAR, Mr. KOGOVSEK, Mr. WHITE, and Mr. HALL of Texas.
H.R. 7240: Mr. DOUGHERTY, Mr. EDWARDS of Oklahoma, Mr. WHITEHURST, Mr. LOTT, Mr. SPENCE, and Mr. LIVINGSTON.
H.R. 7241: Mr. WEAVER, Mr. GARCIA, Mr. GRAY, Mr. WHITEHURST, Mr. AUCOIN, Mr. SIMON, and Mr. OTTINGER.
H.J. Res. 207: Mr. DERWINSKI.
H.J. Res. 431: Mr. THOMAS, Mr. BARNARD, Mr. GIAIMO, Mr. MCCLORY, Mr. MILLER of California, Mr. LEACH of Iowa, Mr. BINGHAM, Mr. MOTTL, Mr. WRIGHT, Mr. ROSTENKOWSKI, Mr. BENJAMIN, Mrs. BOGGS, Mr. HEFTEL, Mrs. HECKLER, Mr. WOLFF, Mr. DICKINSON, Mr. FINDLEY, and Mr. ROBERTS.
H. Con. Res. 323: Mr. FAZIO and Mr. FORSYTHE.
H. Res. 594: Mr. CAMPBELL.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6942

By Mr. LLOYD:

—Section 38, Arms Export Control Act (AECA) is amended to add the following paragraph:

(f) The export to a country other than a country referred to in section 620 (f)* of the Foreign Assistance Act of 1961 of: (1) communication and electronics equipment with a direct civilian application; (2) transport, utility, or training helicopters with direct civilian application; (3) propeller-driven transport, utility, or training aircraft; (4) trucks and vehicles with a direct civilian application; and (5) technical data relating to these items, shall not be subject to the controls under section 38(b)(2), Arms Export Control Act. These items may be controlled under appropriate provisions of the Export Administration Act of 1979.

FOOTNOTE

*Section 620(f), FAA, refers to "Communist countries," which include specifically, but may not be limited to the following countries:

People's Republic of Albania
People's Republic of Bulgaria
People's Republic of China
Czechoslovak Socialist Republic
German Democratic Republic (East)
Estonia
Hungarian People's Republic
Latvia
Lithuania
North Korean People's Republic
North Vietnam
Outer Mongolia-Mongolian People's Republic
Polish Peoples Republic
Rumanian Peoples Republic
Tibet
Federal People's Republic of Yugoslavia
Cuba
Union of Soviet Socialist Republics (including its captive constituent republics)

EXTENSIONS OF REMARKS

INVENTORY ACCOUNTING AS A BURDEN ON THE CAPITAL FORMATION PROCESS

HON. HENRY J. NOWAK
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. NOWAK. Mr. Speaker, in January 1980, the Small Business Subcommittee on Access to Equity Capital and Business Opportunities, which I chair, issued its report on capital formation and retention. Five recommendations were made to the Congress to help capital-intensive small businesses overcome their capital formation burdens.

The report recognized that small business as a group is labor intensive, and that additional tax relief should be provided to aid labor-intensive small business. It is for this reason that I have begun work on simplifying the tax regulations dealing with accounting for inventories. Tax simplification is important to small business, as it would increase cash flow and thus aid capital formation.

On February 12, the first congressional hearing ever held on the inventory simplification issue was conducted by my subcommittee. At the hearing, Daniel I. Halperin, Deputy Assistant Secretary of the Treasury for Tax Policy, agreed with the view of many small business advocates on the complexity issue. He stated that:

> Small Business has a legitimate complaint that the current complexity in the use of LIFO effectively denies them its benefits. The Administration supports the need to simplify the LIFO rules for small business to make them more available.

Labor-intensive small business is primarily composed of retailers and wholesalers. For them, the largest asset category on their balance sheet is often the inventory classification. With respect to the economy as a whole, the importance of the inventory classification should not be understated. For example, in 1975 there was an approximate total of $341.4 billion of inventory, not including farm inventories, carried by sole proprietorships, partnerships, and corporations.

The two ways in which small business persons generally value their inventories are the first-in-first-out—FIFO—method, and the last-in-first-out—LIFO—methods. FIFO states that those items which are first acquired are the first sold in a business. LIFO is a statutory exception to the general methods of determining cost; LIFO states that those items last acquired are the first sold.

In times of high rates of inflation, LIFO is the preferred method of accounting, as it lessens taxable income. For example, the cost of goods sold under LIFO is computed at the higher inventory prices which, due to inflation, are nearer to the end of the business' taxable year. On the other hand, under FIFO, the business person would have a lower cost of goods sold at the end of the taxable year due to using inventory prices from the beginning of the year for valuation purposes.

SMALL BUSINESS DOES NOT USE LIFO

Small businesses, however, find it all but impossible to adopt LIFO. Internal Revenue Service statistics for 1974 show that 1.1 percent of all retailers and 2.5 percent of all wholesalers use LIFO, as follows:

1974 CORPORATE RETURNS MAKING THE LIFO ELECTION

Industry class	Returns reporting inventory	Percentage of returns electing LIFO method	Percentage of total inventory under LIFO election [2]
Retail trade (all sectors) [1]	386,772	1.1	18.0
Furniture and home furnishing stores	36,044	0.5	3.4
Building materials, garden supplies and mobile homes	31,319	1.0	6.2
Apparel and accessory stores	38,529	1.0	8.5
Auto dealers and service stations	63,863	2.1	8.8
Food stores	26,335	2.1	28.1
General merchandise stores	10,996	4.0	41.0
Miscellaneous retail trade	103,085	1.0	9.0
Wholesale trade (all sectors) [1]	214,975	2.5	17.1
Grocery and related products	20,870	1.6	18.0
Machinery, equipment, and supplies	45,391	2.3	20.3
Miscellaneous wholesale trade	148,714	2.7	16.1
Manufacturing (all sectors) [1]	211,563	3.7	42.2
Apparel and textile products	16,106	0.1	8.9
Motor vehicles and equipment	2,203	5.3	12.7
Furniture and fixtures	6,931	2.0	25.1
Transportation equipment, except motor vehicles	3,651	2.3	30.8
Electrical and electronic equipment	10,800	2.7	31.8
Fabricated metal products	25,327	5.9	50.4
Chemical and allied products	9,860	6.7	60.9
Paper and allied products	3,765	13.2	61.3
Primary metal industries	4,636	8.5	72.2
Petroleum and coal products	1,039	10.7	87.1

[1] These figures represent all sectors in each group. However, not all sectors are listed.

[2] For example, this column suggests that the 1.1 percent of retailers that elected the LIFO method own 18 percent of the total inventory owned by all retailers.

Source: 1974 IRS Statistics of Income, Corporation Income Tax Returns, U.S. Department of the Treasury.

Looking at these statistics, one might speculate that perhaps LIFO was statutorily drafted to cover only a small segment of the business community. However, this is not the case. In narrating the legislative history of LIFO, Mr. Halperin stated:

> LIFO was first enacted in 1938 for two industries—nonferrous metal smelters and hide and leather tanners. In 1938, in response to strong pressure from business, *LIFO was extended to all taxpayers* provided it was an appropriate method of financial accounting for the taxpayer (and so reflected in the taxpayer's financial statements). [Emphasis supplied.]

The above statistics certainly do not conform to the legislative intent of LIFO. Thus, something must be done to reverse these statistics and help increase small business' use of LIFO. Small business' desire for simplification of the inventory accounting rules is not a quest for favorable tax treatment. It is simply an issue of equity.

REASONS FOR NOT USING LIFO

The complexity of the law makes proper compliance with current inventory methods a veritable nightmare. In particular, small business finds it difficult to administer the detailed recordkeeping required in order to make a proper LIFO election. This recordkeeping requires computation of several inventory pools or the establishment of an accurate statistical index. This can only be accomplished by hiring a highly paid tax professional, something a small business person cannot afford.

FEBRUARY 12, 1980, HEARING ON INVENTORIES

The subcommittee hearing on February 12 focused on two proposals for inventory reform. First, it was recommended that the current law and regulations for LIFO be simplified. Second, the National Federation of Independent Business (NFIB) and General Business Services, Inc. (GBS) proposed that small business be allowed to use the cash receipts and disbursements—cash—method of accounting. Each witness stated that his particular proposal is designed to address the complexity of the law issue and the inflationary burdens placed on small business.

As stated above, Halperin of the Treasury agreed with small business on the complexity issue. He stated that Treasury has set up a task force to study the inventory issue, with particular emphasis of LIFO simplification. This task force will primarily focus on simplification of the most widely used method of pricing LIFO inventories, the dollar value method.

NFIB and GBS indicated that LIFO reform is beneficial to small business, but it is not the complete answer. Both organizations believe that many small businesses would not use LIFO, no matter how much it is simplified. They believe that even a simplified LIFO method requires a certain level of sophistication. To bridge the complexity problem, NFIB and GBS suggested that the cash method of accounting would help those small businesses that would never use LIFO.

THE CASH METHOD

Under the cash method, expenditures are deducted in the tax year in which they are actually paid. This method simplifies the need for record-

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

keeping. It is also suggested that the cash method would assist small business in complying with the law. Small farms are presently the only type of business entity allowed to use the cash method by law.

This special inventory exception for farmers was adopted more than 50 years ago by regulation. The relative simplicity of the cash method was the primary justification given for allowing the exception. It eliminates the need to identify specific costs incurred in raising particular animals.[1]

The accounting profession and the Department of the Treasury are generally opposed to allowing small businesses, such as retailers, to use the cash method of accounting. Both see that such a change in the tax law is a departure from generally accepted accounting principles (GAAP). The use of the cash method, in the eyes of the accounting profession, leads to a distortion of income, as there is not a proper matching of income and expenses. The Treasury Department sees this as a potential area of tax shelter abuse, analogous to the cattle breeding area.

JUNE HEARINGS

Two additional days of hearings are scheduled to be held in June on the subject of inventory accounting reform. The Internal Revenue Service is scheduled to testify on the procedures used by agents in their audits of a business' inventory. In addition, several small business groups and the American Institute of Certified Public Accountants are scheduled to testify.

Testimony received at these hearings will provide the basis for recommendations which will be made to the Congress for action on this most important small business issue. Much of the attention of the 96th Congress has been on helping capital-intensive businesses cope with their capital formation problems. It is through inventory accounting reform that the neglected labor intensive business sector will attain equity as well.●

ARTISTS TAX EQUITY ACT OF 1980

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. GEPHARDT. Mr. Speaker, today I join with my colleagues, Mr. DODD and Mr. MOFFETT, in introducing the Artists Tax Equity Act of 1980. This bill will provide much needed relief for artists and their heirs and will, for the first time, make provisions in the tax code for inkind payments of Federal taxes.

Under present law, an artist who donates his work to the public domain receives a tax deduction equal to the cost of materials. An art collector, however, donating the same piece of art into the public domain, would receive a donation equal to the fair market value. This bill would allow an artist to receive a deduction based on 30 percent of the fair market value of the donation. This provision is aimed at increasing the flow of art for public consumption, which has all but dried up as a result of tax reforms in 1969.

This bill is also directed at lessening the burden of estate taxes on an artist's heirs by allowing a donation of a piece of art to be treated as a credit against estate taxes. The piece of art would be valued at fair market value for the purpose of this credit.

Present law would also be changed with regard to two separate provisions. First, an individual would be allowed to claim that an activity is engaged in for profit if a profit is made in 2 of 10 years instead of 2 of 5 years, as is currently the practice. Second, the pre-1976 laws as they apply to copyrights, literary or musical compositions, letters or memorandums, and similar property will be restored. This will reduce the excessive tax burden on unearned income.●

[1] Report of Ways and Means Committee on Internal Revenue Code section 446, as added by the Tax Reform Act of 1976 (Public Law 94-455).

UNITED STATES MUST MEET WORLD TRADE CHALLENGE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. PORTER. Mr. Speaker, President Carter has declared May 18-24 as World Trade Week to emphasize to the people of the United States that trade is vital to our country's economic health.

The President is certainly right to make such a proclamation and we must all commend him for doing so. But, Mr. Speaker, perhaps all the proclamations ought to be put aside and the administration get behind some alterations in public policy very necessary, in my judgment, to allow our country to compete successfully on world markets.

And, Mr. Speaker, we are not doing so, or rather the limited successes American businesses are having are largely in spite of discouraging government policy, not because of its encouragements.

The burdens of excessive regulation, the failures to adopt tax encouragements to investment and export, the tacit and sometimes explicit support for work stoppages, all may well be government policies that we simply can no longer afford. Nor will it do for our country, when unable to meet the challenges of international competition, to erect and hide behind trade barriers.

What is needed, rather, is a complete change in attitude on the part of government, business, and labor, to recognize that we are in a fight for the future with other trading nations, that our success in our home economy and in world markets is vitally necessary to our children and their children being able to live as well as we have.

To understand the extent and importance of the challenge we face, and to understand the directions that another nation—perhaps the world's export champion nation at this time—Japan, has taken to be successful, I submit for my colleagues' consideration a recent article by Prof. Ezra F. Vogel printed in the Wall Street Journal:

MEETING THE JAPANESE CHALLENGE

As an academic observing developments in East Asia for the past two decades, I have gradually come to a disturbing conclusion: The United States is in the process of being surpassed by Japan as a modern industrial power, and this creates serious consequences America is not confronting.

Many Americans are aware of the success of individual Japanese products. Japanese textiles, produced with cheap labor were already inundating the United States in the 1950s. Since then, Japan's labor costs have risen until they are on a par with ours, but Japanese companies have raised productivity and expanded their ability to produce quality products at competitive prices. Even after World War II, the Swiss continued to dominate the international watch market, but last year the Swiss produced about 50 million watches while Japanese companies produced about 60 million. Cameras before World War II were dominated by the Germans; they have been replaced by the Japanese. Americans after World War II enjoyed a substantial lead in radios, but we are now eclipsed by the Japanese. American television was the world leader in the 1960s, but this is now dominated by the Japanese.

CAPACITY AND TRIGGER PRICES

Japanese steel plants have a capacity roughly the same as the United States or almost as much as the entire European Economic Community, but their capacity is the most modern and sophisticated in the world as we are belatedly acknowledging by using Japanese standards as the base measure for determining the "trigger" price. In motorcycles, the dominant four companies in the American market (Honda, Yamaha, Suzuki and Kawasaki) are all Japanese. The United States reigned over the automobile industry, but last year Japan produced about 10 million cars, about the same as the United States, over 100 times the cars it produced 20 years ago.

Japanese abilities are not limited to a narrow range of products. In pianos, hardly a traditional Japanese instrument, in bicyles, tennis and ski equipment, snowmobiles, pottery, glass, machine tools, Japan is a strong competitor. In calculators, office copying machines, Japanese advances are impressive. In industrial robots, which provide users with mass production-like efficiency for smaller orders, Japan is perhaps the world's leader. In semiconductors, they already pose a threat to American industry.

In banking, by 1978, of the world's largest 30 banks, 4 were American and 1 Japanese; of the top 300, 58 were American, 61 Japanese.

In the international market place, the chronic American trade deficits and continuing Japanese trade surpluses suggest that Japanese competitive superiority cannot be explained entirely by Japanese trade barriers which have been reduced rapidly since the late 1960s.

The Japanese market is not easy for outsiders to enter, and Japanese businessmen and government officials at times still add to the difficulties of foreign businessmen. But if one added up all the artificial restraints on entry of foreign goods into the American market the restraints on entry of textiles, shoes, TV sets, automobiles, steel and even agricultural products; the size of military procurement closed to foreign producers; and the varying state rules slowing down entry of various foreign goods—it is at least open to question whether complete opening of the American and Japanese markets would alter the bilateral trade balance in America's favor.

In 1978, Japan had a world-wide industrial trade surplus of $76 billion. The United States, which had enjoyed an industrial trade surplus in the years previously, dropped in 1978 to an industrial trade deficit of $5 billion. Using the average yen-dollar exchange rate for 1978, the value of Japanese industrial output was then about two-thirds of that of the United States, or about one and one-half times our industrial output per capita. Because of the costs of oil imports, Japanese trade surpluses have been vastly reduced in 1979, but long-range trends are in Japan's favor.

In trying to predict future trends, one should note that Japan's 1978 absolute investment in new plant and equipment was approximately the same as in the United States, or about twice America's investment per capita. This is perhaps not surprising considering that the Japanese personal saving rate, which had been averaging about 20 percent per year has been running higher the past several years while the American saving rate which had been running at about 6 percent per year, has fallen to less than 4 percent.

If Japanese and American growth rates continue, Japan will soon be investing more in absolute terms in modern plant and equipment than the United States. The proportion of GNP going into research and development has been falling in the United States but rising rapidly in Japan. While the U.S. still spends more for basic R&D, Japanese R&D is concentrated in areas likely to have a high pay-off in industrial competitiveness.

Japan has many advantages over the United States. It has a disciplined work force with fewer unpredictable work stoppages. A higher proportion of Japanese than American workers are unionized, but Japanese workers are more convinced that their companies will endeavor to look out for their interests.

The Japanese labor force is better educated. On comparative international tests sponsored by UNESCO, Japanese children greatly surpass American children in junior high school and high school level tests in science and mathematics. As we move to higher levels of information technology, this superiority will make a difference.

Japan has highly trained able government officials who specialize in analyzing and encouraging the development of competitive industries. A much higher proportion of Japanese newspaper and television reporters are not only fluent in foreign languages, but familiar with international economic issues, and they play an important role in raising public understanding of foreign developments useful for emulation. Japanese businessmen and government officials are, on the average, better informed than their American counterparts of world developments and more concerned about producing goods that will be competitive in world markets in the long-run.

Government policy encourages industries that can be competitive in the future and reduces aid and protectionist measures for mature industries. Government leaders' commitment to business success and their ability to work with business leaders provides a more secure environment for investment. Because there is relatively full employment and more commitment of companies to look after workers, political pressures from declining sectors are less intense.

Japan is vulnerable because it imports such a high proportion of resources required to meet its energy needs, but the United States now imports more petroleum than Japan and the Japanese have been more successful in developing public support for long-range national plans for conservation and diversification of sources. In short, I see no reason to disagree with estimates of economists who predict that over the next several years Japanese growth rates are likely to be two or three times those of the United States, and, that in industrial production, the differences will be even more striking.

SPREAD OF INDUSTRIAL KNOW-HOW

Japan is merely the cutting edge of the spread of industrial know-how to other countries. South Korea, Taiwan, Hong Kong and Singapore are already acquiring industrial capacity in many areas, and China will begin to expand its export capacities in years ahead. If America retains a healthy economy, using our comparative advantage we can absorb many of their exports, encourage their development and retain their friendship. If we resort to protectionism, we lose their good will and our ability to remain competitive.

My purpose is not to add to the gloom that already pervades America. But as a specialist observing Asian developments, I feel responsible for calling attention to the fact that our problems are deeper and more long term than is generally realized. Last-minute response to these difficulties can only lead to unwise short-term measures. In the meantime, the continued deterioration of American companies' market shares will reduce our nation's tax base and further cleavages between the taxed and those who would spend more for human services or military preparedness.

It is not my purpose to suggest that we imitate Japan. We must find our own ways to respond to the challenge. I do not, however, see how we can respond effectively to the challenge without much greater public awareness of the seriousness of the problem. We cannot continue to rely on antitrust laws and political pressure from the losers to determine our nation's industrial policy. We must find ways both to reduce the cost and intervention of government but at the same time to increase its planning and coordinating capacities.

Government and only government can make certain strategic decisions, but to make these decisions wisely requires drawing on the competence which only businessmen and labor bring. A new mission for trade unions is essential; with lingering adversary relations we all lose. These are issues which at best will require many years to correct, but certain trends may be irreversible if we do not act quickly, and this election year may provide a good opportunity to begin.●

A TRIBUTE TO DR. MEREDITH G. BEAVER

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. LEWIS. Mr. Speaker, on May 22, 1980, the Redlands Community Hospital Foundation will honor Meredith G. Beaver, M.D., for the substantial support and leadership that he has given to the Redlands Community Hospital and to the development of the high quality of medical practice found in the Redlands community.

Dr. Beaver received his medical degree in 1926 from the University of Oregon. After graduation and internship, he received a surgical fellowship at the Mayo Clinic and spent the next 4 years at the Mayo Foundation and the University of Minnesota Medical School. While at the Mayo Clinic, he was first assistant to Dr. Frank C. Mann, head of the Institute of Physiology and Experimental Surgery, and following his fellowship remained on for an additional year as first assistant to Dr. John Pemberton, professor of surgery at the University of Minnesota Medical School and head of the Thyroid Surgical Service at the Mayo Clinic.

Dr. Beaver commenced his medical practice in Redlands in 1931. He became a fellow of the American College of Surgeons and a diplomate of the American Board of Surgery.

His early support of the Redlands Community Hospital was instrumental in the formative years of the hospital in bringing certified physicians into the directorship of the Departments of Radiology and Pathology, which was instrumental in the hospital receiving accreditation by the American Hospital Association.

Shortly after the outbreak of World War II, Dr. Beaver was assigned as chief of the surgical services at Torney General Hospital in Palm Springs. From that post he was promoted to surgical consultant for the Surgeon General of the U.S. Army in the 9th Service Command. In that capacity Dr. Beaver was responsible for the surgical services in the 90 general hospitals, which treated a great proportion of the battle casualties of the Second World War.

Following the Second World War, Dr. Beaver, together with Joseph S. Hayhurst, M.D., Espey F. Cannon, M.D., and Gordon L. Witter, M.D., founded the Beaver Medical Clinic in Redlands, which is one of the outstanding medical clinics in the State of California.

Until his retirement from active practice on January 31, 1969, Dr. Beaver gave leadership to the Redlands Community Hospital and to the Redlands medical community, and was instrumental in seeing both achieve an area of excellence.

He has served as chief of staff of the Redlands Community Hospital, president of the San Bernardino County Medical Society, and chairman and member of the advisory board of the San Bernardino County Hospital.

Mr. Speaker, Dr. Beaver is one of the finest physicians in our country today. It is my pleasure to commend him to the House of Representatives for not only his work in medicine but his contributions to the Redlands Community Hospital. He has been instrumental in raising funds for the hospital and responsible for its continued growth during his tenure. I would like to take this opportunity to wish him the best of luck and good fortune in the future.●

UNITY WITHOUT UNIFORMITY

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. BOB WILSON. Mr. Speaker, on Sunday, May 18, 1980, in Philadelphia, Pa., the chairman of the House Armed Services Committee, MELVIN PRICE, was awarded the Legion of Honor Bronze Medallion, the highest honor presented in the Chapel of Four Chaplains, for outstanding public service in his chosen profession.

I believe it would be beneficial to the Members of the House and the rest of the country to read Chairman PRICE'S remarks delivered on Armed Forces Day weekend:

UNITY WITHOUT UNIFORMITY

Dr. White, Associate Chaplains, and Ladies and Gentlemen, I am indeed honored to receive the Legion of Honor Bronze Medallion, the highest honor presented in the Chapel of Four Chaplains. In deep humility, I stand here in this chapel—a nation's shrine to the dream of human brotherhood and above whose entrance burns the eternal light of brotherhood and good will.

With its three altars representing the three great faiths of our people—Roman Catholic, Protestant, and Hebrew—this living memorial exemplifies the need for solidarity among those who believe in the spiritual dignity of mankind and the right of individuals to live in freedom and self respect. Dr. Daniel A. Poling once called the three chapel altars the nation's symbol of unity.

Located in the City of Brotherly Love, the chapel is a living shrine for a whole nation to the memory of the four gallant chaplains—two ministers, a priest, and a rabbi—who surrendered their life preservers so that four other men could live and went down with the U.S.S. *Dorchester.*

The story of their conduct on that bitter, wintry night has been told again and again. It will never be told too often. For we need to be reminded of the spirit of brotherhood represented in the sacrifice of the four chaplains.

I know there is an indelible picture in my own mind of the four men who stood in a circle with arms linked together and prayed as the ship went down.

I suggest on this Armed Forces Day that the ideals of service, courage, faith and brotherhood which the four chaplains represented has never been more needed than at this moment in history.

Today, our democracy stands in the midst of grave crises. But I have faith in America, in the American people, and in the great doctrines of freedom and justice for the individual. I have faith in ordered liberty under law upon which our country was founded and which has supported our claim to moral leadership in the world community.

In recent times, that leadership has been questioned as never before. If we are to regain our position and acceptance of not too long ago, we must demonstrate our adherence to those basic principles which find their roots in our religious ideals and in those concepts exemplified by the four chaplains. In the religious framework they carved for us, we must once again give proper emphasis to the equality of man, the individuality of man, and the responsibility of man.

I feel I would be remiss today if I did not pay homage to another group of heroes who made the supreme sacrifice in the line of duty and brotherhood. I refer to the five Air Force men and three Marines who recently lost their lives in the desert in Iran.

In a eulogy to these eight young men delivered last week at Arlington National Cemetery, President Carter said: "They chose a life of military service at a time when it offered very little glory in our land, when their reward had to come from knowing they had done a necessary and dangerous job. They volunteered for this mission, knowing its importance and its risks. They did so, not because they cared too little for life to want to live it out to full old age, but because they cared so much more for the lives of our hostages and for the right of our people to enjoy the freedom for which this nation was formed."

We echo the President's remarks. Like me, every American must feel deep pride in the valor and dedication to duty of those who died in that dark desert night. Of such men was our beloved country made.

Their lives remind us again that there is a moral force in this world more powerful than the might of arms or the wealth of nations—as important as those things are.

We do not pretend to know why those who seem to have been needed so much here on earth should have been taken so soon. Our temptation is to rebel and ask why. But in the words of another great chaplain, Dr. Peter Marshall,

"The measure of a life, after all, is not its duration, but its donation."

To these brave and gallant men who rose to heights of unselfish sacrifice, let us extend a fond salute, a grateful salute, a profoundly respectful salute on this Armed Forces Day weekend. They practiced separate religions but they prayed to the same God and believed in the same brotherhood of man.

Let us be challenged and inspired as never before to a renewal of faith in the power of national unity and to the spirit of brotherhood represented in the sacrifice of these courageous men.

If you will permit me to paraphrase the credo of the Chapel of Four Chaplains: Let the spirit which bound these men together in death now bind us together in life.

There can truly be unity without uniformity.●

NEW AMERICAN CITIZENS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. LONG of Maryland. Mr. Speaker, it is with particular pleasure that I congratulate 25 residents of Maryland's Second Congressional District who have chosen to become American citizens, accepting all of the responsibilities that freedom and citizenship entail. I hope that my colleagues will join me in welcoming these new Americans, extending to them our best wishes for a happy and prosperous life in the land we love. They are:

Arcot Kumar, Mary Dangleis, Ernel Lawrence, Ramenh Ghodgaonkar, Kripa Kashyap, Sheela Kashyap, Yoji Shimizu, Bum Han, Eleuterio Agustin.

Barbara Ciezkowski, Eliezer Adari, Richard and Cheryl Holloway in behalf of Cynthia Holloway, Moses Kleiner, Sukkyun Han, Lai Cheung, Lucia Duprey, George Duprey, Charles Duprey, Maria Nyitrai, Nunzio Florentino, Rosa Sevidal, Eliseo Sevidal, Gungor Mutlu, Soledad Hernandez, Lena Sause.●

CONGRATULATIONS TO WHITTIER REPUBLICAN WOMEN'S FEDERATED CLUB

HON. WAYNE GRISHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. GRISHAM. Mr. Speaker, I would like to take a moment to congratulate the Whittier Republican Women's Federated Club on their silver anniversary, commemorating 25 years of outstanding service to their community and their government.

Their club is made up of 427 members, comprising the second largest Federated Women's Club in Los Angeles County. Their service has been oriented toward involving women and young people in government, and they have achieved great success in these endeavors.

Whittier Republican Women's Federated has activities which range from providing scholarships to students at Whittier College to baking cookies for the veterans at the Long Beach VA Hospital at Christmas.

They are an active voice in the community and have garnered enough support to establish a year-round headquarters to offer their services.

They have, over the years, been instrumental in educating the public regarding issues which face our legislators. They have been active in supporting candidates whom they believe will benefit the public good and I am very proud to have such community service in my district. I hope that their involvement will last for many years to come and extend them my warmest congratulations on this 25th anniversary of their charter.●

THE MILITARY RETIREMENT INCOME EQUITY ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mrs. SCHROEDER. Mr. Speaker, I have been getting many questions on the provisions of the Military Retirement Income Equity Act. I provide a question and answer sheet on the legislation as a handy reference for my colleagues:

THE MILITARY RETIREMENT INCOME EQUITY ACT

Question. What is H.R. 2817?

Answer. This bill would entitle a former spouse to a pro rata share of their spouse's retirement pay if the couple were married at least 10 years. The bill also makes survivors benefits mandatory unless the spouse and former spouse agree in writing to opt out of the survivors benefits plan.

Q. Does this only apply to the military?

A. Yes. However, I have introduced three separate bills in Congress dealing with this issue. H.R. 2817 amends the military pension system, H.R. 2818 amends the Civil Service pension system and H.R. 2857 amends the Foreign Service pension system.

Q. How is my pro rata share calculated?

A. You *qualify* for a pro rata share if you were married 10 years. The maximum is 50% and is calculated as follows:

Number of years married during creditable service/number of years of member's creditable service×.50×total retirement annuity.

Here are a few examples:

1. John and Mary Jones are married for 10 years, then get divorced. John has been on active duty in the Air Force for 8 of these 10 years, and after the divorce, he serves 12 more years for a total of 20 years. Mary would be eligible for 8/20 times 50% of John's retirement pay.

2. Bob and Alice Smith are married for 5 years when Alice joins the Navy. After 30 years of active duty, she retires. Then they get divorced. Bob would be eligible for 30/30 times 50% of Alice's retirement pay.

3. Bill and Jane Brown are married for 12 years and then get divorced. Bill then joins the Air Force and serves on active duty for 20 years and then retires. Jane would be eligible for 0/12 times 50% or $0. Jane receives nothing because she wasn't married to Bill during creditable service.

4. Tom and Nancy are married for the first 10 years of his active service in the Marine Corps. They get divorced and, 5 years later, Tom marries Susan. He serves another 15 years, making a total of 30 years of service. Tom and Susan get divorced after he retires. Nancy would be eligible for 10/30 times 50% of his retirement pay and Susan would be eligible for 15/30 times 50% of his retirement pay.

Q. Is my payment automatic?

A. Yes. You would receive your check directly, so you wouldn't have to contact your former spouse at all. This would eliminate collection problems when former spouses don't comply with their court settlements.

Q. What if I remarry?

A. If the former spouse remarries before the age of 60, he or she is no longer entitled to a portion of the annuity.

Q. How would H.R. 2817 affect survivors benefits?

A. This bill would award a pro rata share of survivors benefits to a divorced spouse. Survivors benefits would be mandatory unless *all* the affected parties—that is, the servicemember, his or her current spouse and/or former spouse (if any)—choose not to follow the plan. Because a servicemember *must* obtain his or her spouse's approval in order to refuse the plan, we hope to avoid the tragic surprise that confronts many military widows and widowers.

While this step may be controversial, I am confident that it is necessary. In fiscal year 1976, of 64,000 military retirees, only 54% chose to participate in the Survivors Benefits Plan. As a result, approximately 30,000 widows or widowers will find themselves without benefits after their spouses' death.

Survivors benefits would be computed by the same formula used to compute a former spouse's share of retirement pay, that is, it would be based on number of years of marriage during creditable service. A former spouse married 20 years during 30 years of creditable service would be eligible for 2/3 of the survivors benefits. The surviving spouse, if any, would get the remainder of the survivors benefits, regardless of how many years they were married during service.

Q. Would the bill be retroactive?

A. No. Unfortunately, the bill would not apply to military couples already divorced or retired.●

NATIONAL HANDICAPPED AWARENESS WEEK

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. OBERSTAR. Mr. Speaker, this week of May 18-24 is National Handicapped Awareness Week. The purpose of this event is to sensitize the public to the many challenges that handicapped individuals face each day and to increase support for the changes that can turn a disability into a handicap. A kickoff ceremony to the activities of Awareness Week in Minnesota was held in St. Cloud this past weekend. I would like to share with my colleagues the text of my remarks from this historic event:

Today marks the beginning of Handicapped Awareness Week in Minnesota and throughout this Nation. I am pleased to have this opportunity today to congratulate all the coordinators and participants who have worked so hard over the last few months to make this special week possible. What began as a local concept, just four years ago, has now grown into a celebration of national importance. This year, in Minnesota alone, over forty communities will be participating in awareness events. We as Minnesotans should be proud of the leadership role we play in improving the lives of handicapped citizens.

Over the past ten years, we have made tremendous legislative and technological strides in addressing the needs of handicapped Americans. Buildings are being redesigned. Architectural barriers have been removed. Physical aids have been developed to provide handicapped people with easier access to may aspects of our society. However, even as the last ramp is laid into place, there is more work to be done.

Although these advances have done much to assist handicapped individuals to overcome physical barriers, there are other—invisible—barriers which must also be removed.

Attitudinal barriers, which are often the most difficult to address, can be eradicated by the kinds of activities that will take place this week. By educating the public, conducting workshops to foster greater communication between handicapped and non-handicapped people, and generating an atmosphere which encourages mutual understanding we can accomplish this goal.

As we enter into a new decade, let us work together to build a society that enables all people to reach their potential and live independent and fulfilling lives.●

BEHIND THE CUBAN TRAGEDY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the commentary appearing in the May 13 Washington Post entitled "Behind the Cuban Tragedy," by Ernesto Betancourt, Fidel Castro's Washington representative during the Cuban revolution.

The possible consequences of the failure of the Castro regime in Cuba may well lead to a greater Soviet involvement not only in Cuba but in the rest of Latin America as well.

This commentary gives a sober analysis of the collapse of Castro's example as a model for the rest of Latin America. It also presents the ominous possibility of a Soviet invasion in Cuba duplicating Hungary in 1956, Czechoslovakia in 1968, and Afghanistan in 1979. We would be well advised to be prepared to act if such a possibility were to become a reality.

The article follows:

BEHIND THE CUBAN TRAGEDY

For weeks now we have been exposed to the tragic spectacle of thousands of Cubans desperately trying to flee the island. The human aspect of this tragedy has been aggravated by Carter's hesitation as well as by Castro's frantic maneuvering and viciousness.

Little can be added to the human side of the story. Faces and events speak more eloquently than words. But there is a meaning behind these events that could confront the United States with an opportunity that transcends the boundaries of Cuba and the refugee issue.

Underneath the bragging and the orchestrated mass demonstrations, Castro is running scared. The Soviets may move to free themselves from the discredit he is heaping upon the socialist model among Third World leaders. They may be concerned with a Caribbean Afghanistan. Furthermore, these events show that Castro has lost touch with Cuban public opinion.

The action that unleashed this situation was Castro's decision to allow visits by exiled Cubans. Instead of treating them contemptuously as "worms," Castro's press called those who had fled the island "members of the community in exile." His main concern was to earn desperately needed foreign exchange. Overconfident, as all beneficiaries of absolute power are, Castro could

hardly expect that move to bring so many headaches upon his regime.

The 100,000 Cubans who visited the island in 1979 has an eye-opening impact on those who had stayed behind. The contrast in life styles awakened memories among the old, who could remember. It also opened new vistas to the young, who supposedly were thoroughly indoctrinated by the regime. The impact was not limited to the appeal of abundant food, clothing and electronic gadgets, but went to the deeper issue of freedom. There is a stronger appeal in being able to speak, to travel and to live and work where you want. And, most important, people want to be free of fear.

To say this does not belittle the importance of material conditions. These mass visits coincided with a disastrous situation in the Cuban economy: the collapse of the tobacco crop forced the closing of cigar and cigarette factories, idling 27,000 workers. The sugar crop this year is also a failure. Consumer goods shortages are appalling. The so-called Soviet assistance does not seem to alleviate these hardships.

In the presence of an increasingly educated population, it is easy to understand the judgment of those who want to leave. Cuba under Castro is unable to offer the good life or the pursuit of happiness. Charisma is no longer enough to keep the population's support for the regime.

In a speech last December, Castro made a pessimistic review of the economic situation. Earlier, his brother, Raul, minister of defense, had blamed the revolutionary leadership—meaning Fidel—for the economic mess. Castro took over direct supervision of the Ministries of Defense, Interior, Culture and Health—a strange approach to improve the management of the economy. More likely he was trying to prevent a Soviet move to replace him or to regain control of the police and military from pro-Soviet elements.

In January 1980, Celia Sanchez, Castro's Sierra Maestra secretary and lifelong companion, died. This provoked speculation in diplomatic circles in Havana that she was killed in a shootout between Fidel and Raul. Since Raul is known to be the Soviets' preferred Castro, it is not too farfetched to infer that Soviet pressure is a cause of tension among the core leadership in Havana.

Pressure for what? We can only speculate. The Soviet Union cannot be too happy with Castro's failure to use his position as chairman of the non-aligned movement to ease its embarrassment over Afghanistan. In fact, Castro couldn't even attend President Tito's funeral. At a time when the Soviets see opportunities in the Caribbean, Central America, Africa and the Middle East to capitalize on a favorable military balance of forces, Castro's clumsy handling of the Peruvian Embassy incident has introduced an unnecessary and most damaging distraction. What has happened undermines the rationalizations used by the Soviet Union to justify its expansionism in the Third World.

Rather than Cuba's being seen as a model for the wave of the future, questions are being raised in Mozambique, Jamaica, Guyana, Costa Rica, Peru and other quarters about the workability of the Cuban experiment. No wonder Castro wants all the refugees to come to the United States instead of going to Latin America. There they could help destroy the myth of his success in building a new, happier society.

The use of goon squads at the U.S. Embassy against those wishing to leave and the announcement on May 1 of the creation of a militia seem to reflect Castro's distrust of the Cuban armed forces. It is not that they may be unwilling to act against the people; that point has not yet been reached (although it may come, as it did in Hungary in 1956). Probably Castro needs a force less influenced by the Soviets to protect himself from a fate similar to that of Hafizullah Amin in Afghanistan.

In the event of disintegration of the Castro regime, what should our position be? We must be prepared to face the eventuality of a Soviet move to replace Castro in order to keep Cuba within the communist camp. Even if severe repression is required, the Soviet military leaders are unlikely to accept quietly the loss of such a crucial strategic position. Following usual Soviet practice, Castro's adventurism could be blamed for the regime's failure.

Under such circumstances, could the Soviets rely on the Cuban armed forces in Cuba, Ethiopia and Angola? That is doubtful. Once events are unleashed, the hatred of the Cubans for the Soviets will make the regime highly unstable. As in Hungary, Czechoslovakia and Afghanistan, Soviet forces may have to be used. That is the moment for which we had better start preparing contingency plans and, one hopes, under a more determined leadership than we have shown recently.

Granted, this is a very hypothetical interpretation of the meaning of the Cuban exodus. But we should not ignore it. Guilt over Vietnam, Chile and Watergate has made many lose sight of the strong appeal of a free society. It is that kind of attitude that leads people to think that communism is irreversible, but not even Brezhnev believes that. If he did, the Brezhnev doctrine would not have been necessary.●

EL SEGUNDO HONORS RETIRING CITY TREASURER RUTH HOPP

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. DORNAN. Mr. Speaker, it is a rare public official who is so trusted and respected by the community he or she represents that they are elected to seven successive terms. Ruth Hopp, retiring treasurer of the city of El Segundo, Calif., is that government officer.

Educated in El Segundo public schools, Mrs. Hopp entered city government in 1941 with the El Segundo Public Works Department. From 1950 to 1952, she served as deputy city treasurer for the city.

In 1952, Mrs. Hopp began her first 4-year term as city treasurer. Her ability and dedication earned her the faith and confidence of all El Segundo. Reelection after reelection further displayed the public's endorsement of her responsible approach to finance.

Ruth Hopp is more than a respected city officer, though. She has found time and energy to devote herself to professional organizations. Mrs. Hopp is a past president of four groups: the Municipal Treasurers' Association of the United States and Canada, the Municipal Finance Officers' Association of Southern California, the Quota Club of El Segundo, and the California Municipal Treasurers' Association. In addition, she is a charter member of the El Segundo Business and Professional Women's Club.

Not only can Ruth Hopp's husband, Harry, and daughter, Susan McKinley, be proud of the retiring city treasurer, but so can the entire community of El Segundo. Mr. Chairman, I join the many beach city residents who wish Ruth continued good fortune in all her endeavors.●

THE HIGH COST OF HEALTH CARE FOR OUR CITIZENS IN NURSING HOMES

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. DOUGHERTY. Mr. Speaker, throughout this 96th Congress the issues of the quality, scope, and costs of health care available to each American has been given considerable attention. Present economic conditions will warrant further serious examination of the cost of health care. I would like to share with my colleagues a poignant letter from the Diocesan Council of the Episcopal Diocese of Pennsylvania which illustrates the confusion and difficulties which exist specifically in the area of health care for residents of nursing homes:

DIOCESE OF PENNSYLVANIA,
1700 Market Street, Philadelphia, Pa.,
March 20, 1979.

Hon. CHARLES DOUGHERTY,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE DOUGHERTY: The Diocesan Council of the Episcopal Diocese of Pennsylvania wishes to express the great concern of this Church over the rising cost of health care, especially as it affects the elderly and infirm in nursing homes. The difference between the actual cost of care and level of reimbursement received from public sources is placing an almost insurmountable burden upon many of the nursing homes in the Philadelphia five-county area. The burden falls most heavily upon those facilities located in the poorer and middle income sections of the community, and is creating a very critical situation for some institutions. This has a very serious effect on the availability and quality of health care, especially for the indigent.

Two examples of the problem in the City of Philadelphia are the Mercy Douglas Human Services Center and the Stephen Smith Home. Mercy Douglas presently experiences a per diem cost for patient care of $38.50, while the reimbursement received is only to a level of $31.75, leaving a gap of $6.75 per patient day. The Stephen Smith Home, which recently accepted forty-six additional patients as a result of the closing of the Sarah Allen Home, has a per diem cost of $38.00 and a reimbursement level of $32.08 leaving a gap of $5.92. These are only two instances of what is a widespread problem.

Under these circumstances it becomes increasingly difficult for indigent and fixed income persons to secure placement in nursing home facilities. In some cases, the financial viability of the institutions themselves is threatened.

We urge, therefore, that the appropriate government bodies take cognizance of this critical problem, and that the reimbursement to nursing homes for the care of indigent patients be raised to a level which is more nearly equal to the actual cost of care.

Sincerely,

KATHERINE W. DAY,
Secretary of Council and Convention.●

COAL'S MESSAGE IS BEING HEARD

HON. NICK JOE RAHALL, II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. RAHALL. Mr. Speaker, coal's message is starting to be heard.

Within the last few days, major newspapers throughout this country have been singing the praises of coal. I ask, Where have they been?

America's energy future rests with coal. Something thousands of Americans realized a long time ago, especially coal miners and coal producers, not to mention West Virginia newspapers.

I urge my colleagues to review the two editorials I am submitting for the RECORD from the New York Times and the Washington Star.

I am pleased that the effort for expanded coal use is gaining the support of these two newspapers. They have not been known for their strong support of coal in the past, and their more realistic outlook of the energy picture is indeed encouraging.

The time is now to move ahead with the greater production and use of coal, and the coal conversion bill, H.R. 6930, is essential to this effort.

The American people should no longer have to pay more for gasoline; they should no longer have to pay more to heat their homes; not one more miner should be put out of work.

We have the coal. We have the technology. What we need now is the commitment.

[From the New York Times]

LOOKING FOR THE CATCH IN COAL

The more we reflect on the possibilities of coal, the easier it is to get excited. The World Coal Study issued last week offers the most hopeful energy news in years of crisis. Compared with coal, oil prices have zoomed so high that it is now possible to spend heavily to make coal cleaner and safer—and still come out ahead.

Consider just how enormous the price differential has become. A typical American utility spends roughly $35 for a ton of coal delivered, and another $25 to meet existing air and water pollution standards, a total cost of $60. The equivalent amount of crude oil would cost $165. That leaves a tremendous margin to pay for doing things right.

Coal does not have to be unacceptably dangerous and dirty. Determination, and money, can make it safe. The best-managed mines have substantially reduced deaths from accidents and black-lung disease; they are now no more hazardous than other high-risk manufacturing or construction. All mines could be compelled to reach these standards.

Nor does strip mining have to leave the land scarred. At modest cost, terrain can be restored to its original condition. And emissions from coal-burning plants, long a curse to industrial cities, could be controlled. New coal-fired power plants emit less pollution than most oil-burning plants. Replacing old oil plants with new coal plants could *improve* air quality.

Is there a catch in this rosy view? If so, it is not yet apparent. Government analysts acknowledge that coal has an enormous price advantage over oil and that some of this can readily pay to meet strict health and cleanliness standards. The claim that coal can be used safely gains credence from the support of Russell Train, former head of the Environmental Protection Agency, who participated in the World Coal Study. The idea is also endorsed by current E.P.A. officials.

No one thinks of coal as anything more than a transitional fuel, en route to renewable energy sources. A solar advocate, in fact, might argue that all effort should be concentrated on developing that source more quickly. The World Coal Study estimated that solar energy might meet about 10 percent of the nation's needs by the year 2000. The Carter Administration's goal is twice that. But even if it develops that fast, there would still be a great need for coal, domestically and abroad, where experts show little confidence that solar energy will contribute much in this century.

What are the other alternatives? Coal is more acceptable to the public than nuclear power. And unlike solar, it uses mostly time-tested technologies. The task now is to get on with the job of building the necessary mines, transportation links and combustion plants. That will happen as the economic advantages of coal over oil become more widely appreciated, but only if some key coal producers and potential users get over their endless dyspepsia.

The National Coal Association still complains that coal-use goals cannot be met unless pollution and strip-mining regulations are eased. Utilities complain about the high cost of scrubbers if they switch from oil to coal. If any particular environmental standard turns out to be demonstrably excessive, it should of course be modified. But the encouraging message of the World Coal Study is that it will pay, in dollars and in independence, to burn coal; that the world can do so without sacrificing the environment; that there is no catch.

[From the Washington Star, May 19, 1980]

THE PROMISE OF COAL

Coal can be critical to ease America's overdependence on foreign oil, and the resource to maintain global economic growth over the next two decades. That is the message of two major studies, which emphasize that decisions to put greater reliance on coal must be made now.

The World Coal Study released last week concluded that coal will be vital to sustain any kind of real economic growth in the world between now and the year 2000, and that it "can be mined, moved and used at the most stringent environmental protection standards and at acceptable costs . . ." President Carter's Commission on Coal recently said, "Strong legislation, including mandatory reduction of utility and industrial oil and natural gas use, is long overdue."

So far the U.S. has made only fitful movement to revert to a fuel that is abundantly available. Despite the political obeisance paid to coal during the 1970s, the coal industry may have a case for breach of promise. Capacity exists to mine 1 billion tons a year, but there are now 100 million tons of coal stockpiled above ground and going unused. The National Coal Association last week told President Carter that this goals on production and use for 1985 cannot be met, and blamed "current government policies and regulations."

In a recent series on the subject, *The Star's* Lance Gay noted the complex of factors that has impeded expanded coal use: A history of unsafe mines and working conditions, and the problems of reliable supply arising from turbulent labor-management relations; rate-structure policies that tend to erase the economic advantages of coal; economic and investment uncertainties created by an ever stricter environmental and regulatory climate; restrictive federal leasing policies on Western government-owned land.

Difficult problems all, but none intractable. As the logic to return to coal becomes increasingly compelling, however, the environmental dispute could dominate—and distort—the debate.

The two most conspicuous environmental problems with coal are acid rain and the "greenhouse effect," the concern that carbon dioxide in the atmosphere could, over time, disrupt the earth's weather patterns. The World Coal Study acknowledged that coal releases 25 per cent more carbon dioxide than oil, but added, "Most researchers expect that there are at least several decades to evaluate the carbon dioxide modification issue." That sort of observation does not comfort those who translate technological rough edges into imminent lethal specters. But it is a tenable judgment.

Acid rain has been drawing particular public attention of late. Scientists have yet to fix the sources of acid rain, how long it has been around or how precise the effects it causes. Sulfur dioxide, combining with atmospheric moisture to form sulfuric acid, returns to earth as a pollutant, and a joint U.S.-Canadian study last summer said, "There is substantial reason to suspect" that it "will have adverse effects on aquatic systems, forest, and agricultural systems."

Clearly, this warning cannot be disregarded. But we also need to know more about acid rain. Is it primarily the result of industrial emissions? To what extent do automobiles contribute? What are the best methods and how much will it cost to develop and install controls?

Douglas Costle, the administrator of the Environmental Protection Agency, is intent on immediate regulation: "There's a lot we don't know, I admit," he says. "But we do know enough that we ought not to make the problem any worse and that we ought to take remedial action."

It is not complacent to wonder whether Mr. Costle isn't calling for a third alarm at the first traces of smoke. Congress last fall authorized a 10-year, $10 million acid rain study. To impose a fresh layer of federal regulation on a condition as yet so partially understood would seem at least premature.

Acid rain is alarming, and we must deal with it. But the United States has already allowed itself to be taken hostage by a morbid reluctance to use a practical alternative, coal, against dependence on foreign oil. A first priority should be congressional approval of President Carter's $10 billion proposal to switch East Coast oil-fired utility plants to coal.

The intense environmental opposition could jeopardize passage—as well as the entire effort to turn, as quickly, efficiently and safely as possible, to coal. Failure to do so could be devastating.●

PERSONAL EXPLANATION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. CORCORAN. Mr. Speaker, due to a previous commitment earlier today, I was not present for the votes on three suspensions considered by the House. Had I been present, I would have voted for all three suspensions: H.R. 6940; H.R. 7102; and H.R. 3.●

GLENS FALLS HADASSAH HONORS HELEN AND SAUL SILVERSTEIN

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. SOLOMON. Mr. Speaker, at a testimonial dinner on June 11, 1980, the Glens Falls, N.Y., Chapter of Hadassah will honor Helen and Saul Silverstein for their outstanding leadership in the community and their dedicated services to the people of Israel. I would like to take a moment on this occasion to call attention to the invaluable contributions the Silversteins have made to my hometown community.

Mrs. Silverstein is a native of Glens Falls and a graduate of Glens Falls High School. She attended Packard Commercial School, Baruch College, and New York University. She is administrative office manager of Silverstein and Loftus, local certified public accountants.

Mrs. Silverstein, a founding member of Every Woman's Council, Inc., a local organization dedicated to helping women help themselves, now serves as corresponding secretary of the board of directors. She also conducts minicourses at Adirondack Community College on financial planning for women and has served as voluntary tax consultant to the Glens Falls Senior Citizens Center for the past several years. Recently, she was appointed to the advisory council of the New York State Republican Women Legislator's Action Network.

A charter member of the Glens Falls Chapter of the League of Women Voters, Mrs. Silverstein has also been a member for the past 35 years of the Glens Falls Chapter of Hadassah, sisterhood of Temple Beth-El and sisterhood of Congregation of Shaaray Tefila.

She is presently a member of the Hadassah board of directors and serves as Israel bond chairman of the local chapter. She organized the Glens Falls Area Women's Division of the United Jewish Appeal in 1947 and was its first chairman. She currently serves as the cochairman of the women's division.

Saul Silverstein, senior partner in the firm of Silverstein and Loftus, has served the Glens Falls area in many capacities. Currently serving the second year as president of the Adirondack Regional Chambers of Commerce, Mr. Silverstein is a graduate of Baruch College and attended New York Law School.

He is a member of the New York State Society of Certified Public Accountants, the American Institute of Certified Public Accountants, and the National Conference of Certified Public Accountant Practitioners.

A Glens Falls residents since 1945, Silverstein is a member of the board of directors of the Glens Falls National Bank and Trust Co. For 20 years, he was a director of the Glens Falls Hospital and was secretary-treasurer when he retired from the board in 1975. A past president of the Glens Falls Kiwanis Club, Temple Beth-El, the Glens Fall Zionist District, Charles Gelman Lodge of B'nai Brith, and past chairman of the Glens Falls Jewish Welfare Fund and Israel bond campaigns. Mr. Silverstein has also been active in the Glens Falls Area Cerebral Palsy Association and the Glens Falls Forum.

He was elected recently to the board of trustees at the Hyde Collection. He presently serves on the board of governors of the Glens Falls Country Club.

The Silversteins are the parents of Deborah and Daniel, both of whom now live and work in New York City. "A total Hadassah family," Mrs. Silverstein and Deborah are life members of Hadassah and the men are both Hadassah associates.

I am honored to call the attention of my colleagues to these outstanding citizens of my community, Helen and Saul Silverstein.●

A CALL FOR NATIONAL UNITY

HON. DONALD JOSEPH ALBOSTA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. ALBOSTA. Mr. Speaker, as you and our fellow colleagues are aware, I have made my views on the Iranian situation well known in the U.S. Congress. Today I rise to make known an event in Michigan that should be of interest to all Americans.

On Saturday, May 10, 1980, over 100 residents and students in Big Rapids marched, with American flags and patriotic signs, through the city as a gesture of their support for President Carter's handling of the Iranian crisis. I was both proud and humbled when asked to join them—and join them I did.

We marched from the Big Rapids City Hall to the Mecosta County Building, where our country's flag was ceremoniously raised by Boy Scout Troop 114. The organizers of this unity march, Dana James, Michael Goven, and John Johnson, then presented to me letters for the U.S. Senate, the families of those who died during the recent rescue mission, and President Carter.

I would now like to share the latter letter with my colleagues—for I think it best expresses the feelings of all of us who were there that day. The letter, which I sent to the President earlier today, reads as follows:

We the people of Big Rapids, Michigan, extend our support to you and your Cabinet. We give you our support because you are the tailor of our destiny.

We the people of Big Rapids have united to show our support for this great country. Let the unity of this great land be the antidote to our present crisis, as it has in the past. May our union be a sign for the rest of the nation and a message to the world.

May the support that we extend to you, at this time, help in your future decisions.

This period in time demands capable leadership and strong support by the people. May history record that we both have fulfilled our roles.

Fellow Members, if the President is the tailor of our destiny, then it is proper to call us the craftsmen. Please bear with me now, for I wish to emphasize each and every word of the message from these citizens addressed to the House of Representatives:

We the people of Big Rapids, Michigan, have united together to physically show our support for you and this great country. We give you our support because you are the craftsmen of our destiny.

Let the unity of this great land be the antidote to our present crisis, as it has in the past. May our union be a sign for the rest of the nation to follow.

Let nothing come between us. It is time for a unified Congress and country.

May the support that we extend to you, at this time, help in your future decisions.

Our letter was, simply and appropriately, signed, "The Citizens of Big Rapids."

I delivered the other letters to our Michigan Senators, DON RIEGLE and CARL LEVIN, and to the families of the eight men who lost their lives trying to free our hostages.

To the U.S. Senate, the people of Big Rapids pleaded for a unified Congress and country. They asked that their display of unity serve to strengthen the collective will of our elected officials.

To the families of the eight soldiers, they offered their condolences and the inspiration that, "Out of the tragedy that both you and the country feel, comes a spark; a spark of life. That spark of life has reached us in the heart of Michigan."

Mr. Speaker, I would like to add my signature to all these letters.

These people believe, as I do, that world opinion must be brought to bear on this outrageous violation of international law. But more importantly, they realize the real answer to this

crisis lies within ourselves, in our own unity.

Their actions speak quite well of Michigan's 10th District.●

A CONGRESSIONAL SALUTE TO FATHER C. ALFRED DIETSCH

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. McCLORY. Mr. Speaker, in our increasingly mobile and disjointed age, it often seems that careers become mosaics of many differently colored tiles which may or may not amount to a coherent picture. How rare it is to find a man who has chosen at an early age not a patchwork career but a vocation, to which he has devoted himself with singleness of purpose for 50 years now.

Father Alfred Dietsch's persistence in his vocation as an ordained priest, as well as the nature of his vocation, have gained him the respect, the affection, and the admiration of the whole community of Cary, which he has served so faithfully and so well for the past two decades. And it has brought him a special position of honor and respect among the parishioners of Saints Peter and Paul Church in Cary.

Truly Father Dietsch can be called a builder of his church. In his role as priest, he has built and maintained the human foundations of his parish. He has ministered to his flock, counseled them, and encouraged them. He has been both an inspiration and a guide.

Mr. Speaker, Father Dietsch is a builder of the church also in a more literal sense, since he helped to design and saw to completion the new church building which now is the home of Saints Peter and Paul parish in Cary.

But Father Dietsch's accomplishments are by no means limited to the life of his parish. He is deeply respected by citizens of all religions in Cary and in the surrounding areas, where his work is also known.

Mr. Speaker, it is appropriate that this House add its voice to the many tributes Father Dietsch will receive on the occasion of the 50th anniversary of his ordination. I join the citizens of Cary and of Saints Peter and Paul parish in saluting Father Dietsch.●

THE WILDERNESS UNCERTAINTY ADDS TO PLIGHT OF ALREADY DAMAGED TIMBER INDUSTRY

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. SYMMS. Mr. Speaker, I would like to call my colleagues' attention to an article that appeared in the Wall Street Journal on April 10, 1980. The article graphically depicts the ever-increasing problem in the Northwest relating to timber production. Spiraling inflation and drastic declines in the housing market, coupled with an uncertain supply of timber, has created an economic disaster for many timber mills situated there.

Inflation and the cost of doing business has touched off a migration of Northwest companies who feel that lower labor expenses and a greater private timber supply in the South may ease their economic woes. Raw material costs push higher and higher, contributing to the present housing market declines.

The declines in construction, caused by high interest rates and growing housing costs, have slashed wood demand, closing many small mills that depend on local housing construction for business. The greatest effect has been on the marginal mills that hope to reopen when the current housing situation improves.

But the outlook for many of these small mills, and their ability to reopen once the economic situation brightens, will be further marred by the questionable supply of timber. Presently, millions of acres of land are being held in a state of de facto wilderness while Congress attempts to resolve the issue on an area-by-area or State-by-State basis. The ambiguous language in legislation dealing with wilderness has created a veil of potential litigation that could drag on for years to come, while the land in question continues to be managed as wilderness, effectively precluding any development of timber or mineral supplies. Future debate on wilderness proposals must take into account the heavy burden that the timber industry bears because of Congress indecision.

The future of the timber industry in the Northwest depends, in part, on Congress ability to deal with wilderness in balanced terms, including, but not limited to, statutory release language, which would designate as multiple use those areas which have been studied and rejected for wilderness inclusion.

I commend this article to my colleagues. It reads as follows:

NORTHWEST TIMBERMEN HIT BY HOUSING SLUMP AND SHORTAGE OF TREES

(By Kathryn Christensen)

McCLOUD, CALIF.—For nearly a century, this town of 2,500 has boomed to the rumble of logging machinery and the boasts of sawmill workers and lumberjacks who have never missed a day's work.

Today, that machinery stands mute and those men are swapping job gossip at the post office, sweeping floors for their wives or playing pool between beers at the Mill River Lodge. Most school lunches are on the house, and food stamps have nearly doubled.

"We're a lumber town with no lumber," says Gino Riccomini, who finds himself without a job for the first time in 45 years.

Towns like Kalama, Wash., Lewiston, Idaho, and Eugene, Ore., also are troubled as the formerly lumber-rich Pacific Northwest slumps into what could be its worst lumber recession in memory. At the same time that the housing decline is slashing wood demand—prompting lumber companies to ship more logs abroad and curb sawmill operations—the Northwest is facing a timber shortage that is sending big companies across country to the Southwest.

UNION ROLL DROPS

Because of the timber shortage, many mills would be closing anyway in the next few years. Because of the deep housing slump, many are closing already, at least temporarily. It seems a good bet that many of these won't reopen, though few companies are saying that.

"It's a double whammy," says R. Dennis Scott of the International Woodworkers of America. "The big companies cut their own lands too fast, putting us on the edge of a timber gap, and now the housing thing comes along." Mr. Scott says his union's membership in the Northwest has skidded by almost 25 percent in the past 12 months.

With new cutbacks and shutdowns announced each week, the casualty count builds quickly. Oregon officials estimate that 7,000 of the state's 76,000 timber-industry jobs have vanished since November, and authorities in Washington say that their state has lost at least 7 percent of the 52,000 lumber and wood-products jobs it had in early 1979.

While some of those jobs will reappear if housing demand steps up, experts agree that an acute shortage of timber makes the long-term outlook pessimistic. Brian Wall, a U.S. Forest Service researcher, predicts a decline of up to 45 percent in wood-products jobs in Washington and western Oregon over the next 20 years. Thomas Clephane, a vice president of the New York securities firm of Morgan Stanley, envisions a "meaningful contraction" of the Northwest lumber and plywood industry. He forecasts a 15 percent to 20 percent permanent reduction in the region's plywood production by 1985.

MIRACLE WON'T HELP

Clearly, even a miraculous turnaround in housing starts (now projected at only one million to 1.3 million for 1980) won't help the scores of communities like McCloud. Champion International Corp. closed its sawmill operations here in January because the company's supply of old-growth (large-diameter, high-quality) timber is practically depleted. With no more of the big old trees to cut, a company spokesman says, the mill's log-handling machinery amounts to little more than a collection of museum pieces.

McCloud itself fears the same fate. Of the mill's 300 employees, 65 percent were McCloud residents, and at least one-fourth of the town's population directly depended on the mill payroll. Other local businesses are also threatened. Already the second-biggest employer, McCloud River Railroad Co., has laid off half its 75 workers to adjust to lost mill business, and some merchants have taped "no credit" signs to their cash registers.

Community leaders are scrambling to entice a new business but concede that unless something turns up by June—when the unemployment checks run out and the school term is over—the town faces an exodus of its young families. (Workers laid off by closures are generally entitled to six months of unemployment compensation in California, Oregon and Washington—and more than that when unemployment runs high.)

Just where McCloud's families will go, however, isn't clear. Dennis Rodine, 27, is

one of the few men who have found work in another mill, 160 miles away. But that job is in jeopardy, with rumors strong that this mill, too, will close. If that happens, Mr. Rodine says he will give up and look for another line of work.

OUTSIDE WE ARE LOST

Others, like Uriel Olmos, have already exhausted that possibility. Mr. Olmos, 41, has applied without success, for jobs from San Diego to Sacramento. "A man like me with no other experience, outside McCloud we are lost," he says, rubbing the gap on his hand where he lost three fingers to the sawmill machines.

Nor are the industry's much-touted "supertrees" and reforestation programs of any consolation to these workers. Whatever laboratory breakthroughs have been scored have come too late for them. Timber-cutting in the Northwest has outstripped growth by 56 percent, and the new crop of trees is still 10 to 20 years from harvest.

Big companies that never bothered to buy Forest Service timber are becoming regular participants at those sales now, and the industry is now putting greater pressure on the federal government, which owns half the timber in the Northwest, to place more of its trees on the auction block.

"Our private forests up here will pick up again in the 1990s, but we're going to have problems until then," says John Wishart, Georgia-Pacific Corp.'s vice president of timber and timberlands. Mr. Wishart wants the Forest Service to "bail us out" by allowing producers to harvest its old trees.

Other executives agree, arguing that many of those old trees are dying on the stump and will be "naturally harvested" by insects, disease or fire unless cut soon. They are also outraged by the withdrawal of several million acres of Forest Service land from commercial use while debate continues over how much of that acreage should be designated as wilderness.

Louisiana-Pacific Corp.'s John B. Crowell Jr. says of the government's timber policies:

"There's no timber shortage in this country, and there isn't going to be one. But there could be a wood-products shortage if we don't start cutting and managing these lands properly."

The Forest Service and preservationist groups reply that the service isn't in the timber business. They note that federal laws require the agency to manage its lands for several other purposes, including recreation and the protection of water sources and wildlife.

Meanwhile, lumber workers, merchants and others here in the Northwest watch sadly while major forest-products companies move the bulk of their operations to the South, where forests that once were essentially stripped are again mature. Especially since 1964, when Georgia-Pacific developed a process for producing Southern pine plywood, big lumber and paper companies have been rushing to secure timber supplies in the Carolinas, Louisiana, Arkansas, Alabama, Georgia and other Gulf states.

SEVERAL ATTRACTIONS

The region has several attractions: a longer growing season, proximity to the nation's most active housing markets and a generally less expensive and less unionized labor pool. But its biggest draw is that less than 10% of the timber is government-owned, making it easier to run what Georgia-Pacific's Mr. Wishart calls "a business-like forest."

John Fery, chairman of Boise Cascade Corp., agrees. Though timberland in the South is getting more expensive, "at least you can still buy it down there," he says. "In the Northwest, you either already own it or rely on the government, which is releasing less. Nobody sells up here." Mr. Fery says most of Boise Cascade's five-year capital-spending budget of $2.3 billion will go to expand its paper business and acquire more forest lands in the South and the Northeast.

The major companies insist they aren't abandoning the Northwest, where timber is generally of a higher quality, but their growing reliance on the South is undisputed. Georgia-Pacific owns 2.7 million acres in the South, against about one million in the Northwest. The company is also moving its corporate headquarters from Portland to Atlanta, where it was founded. Executives explain the move by saying that 75% of the company's sales are in the Eastern United States and are generated largely by its Southern operations.

BUILDUP BY WEYERHAEUSER

Even Weyerhaeuser Co., the biggest private land owner in the Northwest with 2.8 million acres, has built its Southern holdings to staggering 3.1 million acres. The Tacoma-based company has also signed up another 500,000 acres in the South for its "tree farm family program," under which it provides landowners with advice on timber management in return for first-refusal rights on trees ready for harvest.

Just how dear these Southern forests have become is illustrated by last year's battle between International Paper Co. and Weyerhaeuser for Bodcaw Co., a privately held company with oil and gas holdings and more than 300,000 acres of Louisiana timberland. International Paper, the winner, spent $805 million to seal the deal and subsequently sold the oil and gas interests for about $188 million.

Here in the Northwest, the only bidding wars left are over the right to harvest publicly owned timber. But the wars are just as fierce. The Northwest Independent Forest Manufacturers says timber sold last year from national forest lands in Oregon and Washington brought $249 a thousand board foot, more than six times the 1970 price.

"Even when lumber prices go down, the raw-material tag keeps climbing," says Robert Boyd, president of the independent group and owner of a lumber company in Sedro Woolley, Wash. Mr. Boyd also charges that prices are inflated further because big companies in the Northwest export their own logs to Japan and bid up the price of Forest Service timber for domestic use. (Federal law prohibits the export of logs from national forests.)

LONGSTANDING ISSUE

The log-export question has, in fact, been a sticky one for the past decade, with labor groups complaining that shipping logs overseas—instead of cutting them in the Northwest for the U.S. market—unfairly depressed the job situation in the mills of the region.

Major Northwest producers reply that federal shipping regulations and high rail-transportation costs have effectively eliminated their markets east of the Rocky Mountains anyway, even when demand is strong.

"The exports here are our only salvation," says Jack Wolff, vice president of land and timber for Weyerhaeuser. "The Northwest is busting its tail to export."

Since 1970, total exports from the West Coast have grown to 3.4 billion board feet from 2.5 billion board feet. About 20 percent of the Washington and Oregon harvest is going overseas, according to Forest Service economist David Darr, with the bulk of it headed for Japan's strong housing market.●

OUTSTANDING ALUMNA

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mrs. HECKLER. Mr. Speaker, hats are her trademark, but her hallmark is dedicated service to the people of Massachusetts. I speak of State Senator Mary L. Fonseca, who will be honored this week with the distinguished alumna award from the B.M.C. Durfee High School in Fall River, Mass.

This well-deserved honor recognizes Senator Fonseca's distinguished career in public service. Her determined and enlightened leadership has greatly benefited the State, and her responsive and effective representation has earned her the respect, the admiration, and the appreciation of the entire community.

I take this moment to share with my colleagues the recent editorial in the Fall River Herald News which highlights the career of this impressive public servant.

The editorial follows:

OUTSTANDING ALUMNA

State Sen. Mary L. Fonseca will receive this year's distinguished alumna award from B.M.C. Durfee High School. She will be presented the award on May 23 in Nagle Auditorium.

Certainly Senator Fonseca richly deserves the accolades of the high school and her fellow alumni. She has now been in public office 35 years, and during that time has long since established her remarkable capacity for representing the people of her constituency here wisely and well.

She is now serving as majority whip in the State Senate, the highest post a woman has ever held in the state legislature. She is also the third ranking member of the Senate leadership team.

Her current high office in the Senate is the result of 28 years of service that have been characterized by unremitting hard work and her sincere concern for the people of this area as well as the entire state.

Senator Fonseca has always been in the forefront of the fight to eliminate discrimination against women. Indeed in her own career she has certainly proved the contention that women are as capable as men in terms of their performance in public office.

She has been equally prominent in the fight to make higher education available to people in this area at a reasonable cost. She was among the earliest legislators to fight for the establishment both of SMU and BOC. The senator has always been among the leaders in the ongoing battle to secure both establishments the state support they need and merit.

With all this Mary Fonseca has always remained fully engaged in activities that will help Fall River and its residents in any way.

Although, over the years she has become one of the most prominent persons in the State House, but she has never ceased to be a loyal Fall Riverite.

The whole city will be delighted that B.M.C. Durfee High School of Fall River is giving Senator Fonseca its annual distinguished almuna award.●

POSSIBLE USE OF SIMONSTOWN NAVAL COMPLEX IN SOUTH AFRICA

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. BOB WILSON. Mr. Speaker, the House Armed Services Committee last November visited the Simonstown naval complex in South Africa and were impressed with the strategic location of this facility, particularly because of its location on the western edge of the Indian Ocean.

It is ironic that our present search for suitable facilities for our ships operating in the Indian Ocean has apparently not even considered Simonstown as a candidate.

Here is a friendly nation willing to offer us a helping hand and we are not even considering our self-interest and obvious need in the perilous military situation confronting us in the Indian Ocean and Persian Gulf area.

I include, as a part of my remarks, a recent statement issued by the Government of South Africa relative to Simonstown.

The statement follows:

THE SOUTH AFRICAN NAVY PROUDLY INAUGURATES ITS NEW TIDAL BASIN

"The new tidal basin means that Simonstown is now the most modern and best equipped naval harbour in the ocean area bordered by South America, Australia and the Mediterranean", the South African Prime Minister and Minister of Defence and of National Security, Mr. P. W. Botha, said when he opened the new tidal basin in Simonstown on 22 March 1980.

Mr. Botha said that while the extensions to the new harbour involved an increase of only about 50 percent in the total water area enclosed, they had virtually doubled the docking facilities available. This was achieved by providing for docking spaces on both sides of as many quays as possible.

The tidal basin was named after Mr. Botha. On the same occasion one of the newly-designed strike craft of the South African Navy which was on public display for the first time, was also named for him.

"The tidal basin and the strike craft are proof that every country that wishes to cooperate with us, is assured of the enormous advantage such cooperation entails", Mr. Botha said. He added: "It should serve as a warning to those who seek confrontation with us, that we have the means and the determination to act quickly and effectively."

The harbour will be used in conjunction with other means at South Africa's disposal to counter Soviet expansionism in the region. The harbour facilities are available to all well-disposed countries who wish to promote stable growth in Southern Africa, as well as the security of the Western Alliance, in co-operation with South Africa.

The vessels are as good as any in their class in the world. Mr. Botha commented: "We can be extremely proud of our local shipbuilding industry which has the ability to provide us with such vessels. These are warships capable of operating rapidly over long distances. The fact that they are missile-equipped, gives them exceptional firepower. They can easily be deployed to any of our harbours and can operate from these harbours."

The tidal basin is "the final phase of the alterations and additions to the finest naval harbour on the African continent". Among these developments were the construction of the submarine complex on the West side of the East Yard between 1969 and 1971, and the expansion of naval training facilities in the dockyard area so that there are today ten naval training schools in the complex which provide instruction in the operational and technical fields.

The tidal basin has had the effect of enlarging the total docking area which can now accommodate more than 50 naval vessels. A 1,000 feet tanker docking area is located alongside the eastern wall. Approximately 15 acres of land were reclaimed for the expansion of shore installations such as workshops, pumphouses, transformer installations, storehouses and ablution blocks.

The walls of the harbour consist of 139 reinforced concrete gates with a mass of 1,300 tons each. These contain service tunnels permitting ready maintenance of the normal quay facilities such as electricity, fresh water, oil, telephones and fire fighting equipment.

The initial feasibility studies, planning, design and supervision of the project were executed by the South African Navy.●

MCPL NUCLEAR ALERT SERIES IX DISSENTING VIEW ON THE REACTOR EXPORT TO THE PHILIPPINES

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. BEDELL. Mr. Speaker, on two separate occasions I and many of my colleagues of the Members of Congress for Peace Through Law have written to the Nuclear Regulatory Commission to express our strong reservations about the export of a nuclear reactor to the Philippines.

In our correspondence we stated our concerns about the dangers of the proposed reactor siting, and later, our disturbance about the NRC decision to limit its review to the global commons and U.S. territory. As expected, the NRC has now given its approval to the export of the Philippines reactor.

I remain deeply concerned about these decisions and the threat they pose to the thousands of Americans and Filipinos living near the reactor site. I submit the dissenting views of Commissioner Bradford as a thoughtful and well-reasoned response to the NRC decision for the review of my colleagues.

DISSENTING VIEWS OF COMMISSIONER BRADFORD

This is neither a clear question nor an easy case. The law is not explicit, and strong policy considerations point in mutually exclusive directions. The difficulty of the matter having been acknowledged, it must still be noted that the majority result does not rise to the occasion. Having concluded that the law permits an assessment of the *effects of U.S. exports at least on the health* and safety of U.S. citizens abroad and on the global commons, the Commission decision establishes a practice that, in this case, leads to an assessment of the impact of an accident on fish no closer than twelve miles to the Philippine coast while ignoring the impact of an accident on the 30,000 U.S. citizens stationed at the Subic Bay Naval Base and the Clark Air Force Base within 10 and 30 miles of the plant.[1]

What should be considered pursuant to the Atomic Energy Act is whether there are means available to this Commission or the U.S. Government that would lessen the probability or the consequences of a serious accident at a U.S. exported reactor. To find that a reactor exported without every reasonable precaution to prevent or mitigate against such an accident would not be "inimical to the common defense and security" is to ignore the effects of Three Mile Island in this country and abroad, to say nothing of whatever military significance might attach to disabling the Clark and Subic bases in this particular case. Nuclear licensing around the world is clearly affected by a major accident,[2] and as long as the U.S. Government maintains that nuclear power has a security-related role to play in lessening global dependence on imported oil, it is counterproductive for its licensing agency to issue exports without doing everything possible to avoid the impact of an accident on that role.[3]

Nonetheless, the NRC must recognize limits on its power to review safety requirements in recipient countries. The majority have stated the concern regarding the extraterritorial application of domestic law. It is also reasonable to note, as they do, that the reactor is expected to operate for some 30 years under laws, standards, and inspection practices that will flow entirely from the sovereignty of the recipient nation. These laws and practices, not any U.S. review, will be the ultimate determinant of the safety of the reactor, and the Commission is correct in noting that a U.S. review cannot be a substitute for effective national regulation.[4]

The framework for any NRC review should be a balancing of the principles of sovereignty and national regulation against our own self-interest in avoiding accidents and against our responsiblity, as suppliers of a potentially dangerous technology, to fully inform the purchaser of the best information that we can develop. Thus, our legal responsibility to consider the common defense and security, our legal responsibility to consider the health and safety of American

[1] This policy of focusing great attention on the analysis of minor contributors to overall risk while declining to consider the major contributors is not new. The Atomic Energy Commission did the same thing by analyzing Class I-VIII accidents in detail while refusing to analyze Class IX accidents, even though it had proof before it that Class IX accidents were the dominant contributor to risk from nuclear accidents. (See Staff Paper SECY-R-338, November 15, 1971.)

[2] The only tenable way to deny that such effects are adverse to the common defense and security is to argue that the reactors are unnecessary in any case, but especially so in developing countries. Even the proponents of this view, however, do not advocate failure to take every reasonable precaution against reactor accidents as a responsible way to prove their point.

[3] It is important to understand that the point being made here is that the adverse impact on the common security flows from the unnecessary failure to guard as thoroughly as possible against the worldwide repercussions of a nuclear accident. This is emphatically not to say that the barrels of oil involved in the operation of any one or two or ten reactors during a particular period of time would necessarily raise a similar common security concern.

[4] However, the majority opinions go on to stand the significance of this point on its head. The conclusion should not be that no review is in order because the review cannot guarantee safe operation. It should be that, because the U.S. has little control over the operating practices or quality assurance and control programs, we should at least do what we reasonably can to advise at the outset on the safety of the site, the design, and the regulatory program.

populations living overseas, and a policy determination to take some effective responsibility for the safe use of our exports, all merge in the direction of a more comprehensive review than the Commission has chosen to undertake. I would not assert that such a review could be a basis for the denial of an export in any but the most extraordinary case. In slightly less extreme cases, preconditions could be attached to an export license. In most cases, however, a review would presume the intelligent self-interest of the recipient nation and could be offered on a cooperative basis as a positive benefit of the U.S. export process.

Such a review might, depending on the information available in any given case, lead to a statement on the following points:

(1) Whether the proposed reactor design would be licenseable in the United States. If not, why not.[5]

(2) Whether the site contained any obvious features that would make it unlicenseable in the U.S. Whether particular features should be of sufficient concern to the recipient country to require further inquiry on its part.

(3) Whether the recipient country was creating a regulatory framework adequate for the scope of its nuclear program.

Depending on the circumstances, some of the results of such a review could conceivably be furnished to the recipient country in confidence if need be. Furthermore, the existence of effective international Atomic Energy Agency involvement could alleviate or remove particular concerns.

* * * * *

As I intimated at the outset, I believe that the Commission result in this case is unsound law and bad policy. The fact is that an accident as severe as Three Mile Island would be inimical to the common defense and security as discussed above. Furthermore, a more severe accident could pose a specific threat to the common defense and security interests protected by the Subic and Clark Bases and to the public health and safety of the 30,000 Americans at those bases. Whatever the scope of the Commission's discretion in coping with this concern, it does not have the power to refuse to evaluate it at all. The finding that the export is not inimical to the common defense and security or to the health and safety of the public should rest at least on as detailed a review as can reasonably be made. No such review exists.[6]

The plurality opinion has also made curious work of the intent behind the Congressional treatment of Section 103(d) of the Atomic Energy Act in the enacting of the Nuclear Nonproliferation Act of 1978. As a first step in its reasoning, the plurality defines away any obligation to concern itself with the health and safety of American citizens abroad by "interpreting" the relevant section of the Senate Report on the Nuclear Nonproliferation Act. What the report says is:

"Although the NRC finding on the health and safety of the public refers only to the American public, it should be recognized that certain overseas activities could pose a threat to Americans."[7]

The Commission suggests that the word "overseas" means only that activities on the Canadian or Mexican borders having an impact on the U.S. public must be considered. As to just what "seas" such activities would be "over," the Commission maintains a dignified silence.

With regard to the operation of the military bases as they affect the common defense and security, the Commission asserts that it has traditionally interpreted the Section 103(d) language as including just the common defense and security of the U.S. This proves nothing. Such an interpretation reinforces the Commission's duty to examine the impacts on the operation of these military bases which exist to defend the common defense and security of the U.S.

On this subject, the House Report states,

In the absence of unusual circumstances, the Committee believes that any proposed export meeting the criteria set forth in Subsection 127(a) . . . would also satisfy the common defense and security standard.[8]

Far from indicating, as the plurality opinion claims, that "the Committee did not contemplate that NRC would use the inimicality finding to . . . include matters . . . beyond the explicit nonproliferation criteria," the Report clearly expects the Commission to do just that in "unusual circumstances." The presence of two U.S. military bases near the site clearly presents just such circumstances. Indeed, I cannot imagine what the Commission deems "unusual" to mean in this context if it does not mean a cluster of tens of thousands of U.S. citizens near a site in a case in which even the Departments of State and Defense urged a limited NRC review.

Having thus converted a legal duty into a discretionary option, the Commission has declined to exercise that option. The primary basis for the refusal to examine the potential impacts of the export is that the Commission would still not be in a position to determine that the reactor could be operated safely. This is not a legally sufficient basis for refusing to look at the potential impacts on the U.S. citizens and the operation of the military bases. Such a look might have provided the missing rational basis for the findings essential to the issuance of this license. For example, if the conclusion had been that the worst possible accident could cause numerous casualties and leave the military bases temporarily or permanently unusable, the Commission might then (1) have recommended to the Department of Defense that it draw up emergency plans, (2) have determined the probability of the accident to be small enough that the risk is acceptable, or (3) have offered assistance to the Philippines to attempt to reduce the risk.[9]

The other Commission concern is that such a review would intrude on the sovereignty of the Philippines. This assumes that the Philippines would not have welcome some review if it had been offered early in the proceeding. In any case, however, some level of review could have been based on the information available in this country as well perhaps as meteorological data from the military bases. Furthermore, a review to determine the possible impacts upon U.S. citizens residing around the reactor seems no more intrusive than some aspects of the nonproliferation reviews nuclear exporting nations are committed to perform pursuant to the London Supplier Guidelines and the Nonproliferation Treaty.

The inconsistency in the Commission's treatment of the sovereignty question is apparent from the plurality's statement that if the reactor were situated in Canada or Mexico close to the U.S. border, the Senate report means that "the U.S. must consider the impacts on U.S. citizens and territory." In those cases, just as in this case, the U.S. cannot assure that the reactor will be operated safely, and any intrusion on sovereignty would be the same in Canada and Mexico as in the Philippines.

* * * * *

Because my dissent is from the Commission order setting the scope of this and other reactor export proceedings, a decision reached months ago, it is somewhat out of place in the decision on the export itself. However, this order is the first place that the Commission has set forth the reasoning behind its earlier decision.

If my concern were simply one of policy, I would note my dissent from the earlier policy but concur that the export license was correct under the course chosen. Because, however, I believe that the law requires of us work that has not been done, I must dissent from the issuance of the license itself at this time. I do not mean by the dissent to say that the record establishes that the plant will be unsafe. The point is that the Commission has declined to consider that question, even as it may affect U.S. citizens and security interests.●

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[5] One party, the Natural Resources Defense Council suggests a history of this design that would, if verified, seem to compel a more extensive review:

"The PNPP-1 design is referenced to a reactor under construction since 1974 in Yugoslavia. This plant in turn had been referenced to an earlier plant under construction in Brazil. This plant was referenced to a Puerto Rican plant which was never built nor licensed by the Commission. The Commission review of the design of this U.S. plant was never completed, terminating in late 1972.

"The State Department's Concise Environmental Review does not name any reference plant for the PNPP-1, but asserts that it is an updated version of three plants in the United States: Kewaunee, Turkey Point, and Prairie Island. All of these plants went into operation between 1972 and 1974 and received their construction permits years before even the terminated Puerto Rico plant review. In the last decade, there have been considerable changes in applicable design criteria and regulatory guidelines. It is highly unlikely that any of these plants could be licensed to operate today without substantial modifications."

[6] This void is not filled by the environmental assessment prepared by the Departments of State and Defense with the assistance of the Department of Energy. That document is little more than a description of the reactor. The Department of Energy was strongly critical of it, and it does not address the possible consequences of a severe accident beyond saying that they would be similar to those to be expected in the U.S. This statement ignores local conditions which are essential to evaluating impacts. In any case, the Commission has declined to consider this document even though the Departments of State and Defense actually suggested an NRC review of the volcanic and seismic risks posed by the reactor to the military bases and thus to the common defense and security.

[7] Senate Rep. 95-467, 95th Cong., 1st. Sess., at p. 13.

[8] House Rep. 95-587, 95th Cong. 1st. Sess., at p. 21.

[9] In this context, I agree with Commissioner Gilinsky's suggestions regarding the Export-Import Bank review and the Department of Defense.

RETIREMENT OF DR. MAURINE P. JOHNSON, CHIEF OF STAFF, VETERANS' ADMINISTRATION MEDICAL CENTER, WASHINGTON, D.C.

HON. RAY ROBERTS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. ROBERTS. Mr. Speaker, it was with deep regret that I recently learned that Dr. Maurine P. Johnson had retired from the position of chief of staff of the VA Medical Center in Washington, D.C.

Dr. Johnson is a graduate of Howard University College of Medicine. In 1949, following 5 years post-graduate work in internal medicine and chest diseases, she became associated with the VA's Department of Medicine and Surgery at the Dayton, Ohio, VA Hospital. She served with distinction at this facility for 13 years. During this period, she was part of the team of VA physicians whose work virtually wiped out the dread disease of tuberculosis in the United States, as well as in other nations in the Western alliance.

Dr. Johnson came back to her home in the Nation's Capital in 1962 as the admitting physician at the old Mt. Alto VA Hospital, which was located on Wisconsin Avenue, Northwest. When this hospital was replaced with the modern facility on Irving Street, Northwest, she was named the chief of the admitting service. Two years later she became chief of all outpatient services. In this latter position, she brought great credit and honors to the VA medical program for the outstanding and compassionate medical care and treatment provided veterans of the area. Dr. Johnson was dedicated to the provision of the very best medical care and worked diligently to provide highly qualified staff, up-to-date equipment, and other specialized services to those men and women who have given so much in the defense of our Nation during its times of greatest need. Her personal honors include awards from nearly all of the major veterans organizations throughout the country.

I would like to take this opportunity to wish Dr. Johnson many years of happiness and good health in her retirement. She will leave a void that will be most difficult to fill, for there are few individuals who can match her compassion, her dedication, and her knowledge. On behalf of the scores of veterans she has served over the years of her distinguished career, her colleagues, those of us who had the pleasure of working with and knowing her, and our Nation, I wish her Godspeed and relay a sincere and heartfelt "Thank You."●

SOCIAL SECURITY TAXES: RELIEF OR RECESSION?

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. GEPHARDT. Mr. Speaker, the picture by the Commerce Department's statistics for the week ending April 19 with regard to the economy is extremely bleak. The much heralded recession is deepening at a rapid pace with an inflationary spiral coincident with it. One of the ingredients in the lowering of the standard of living for the average American is the increase in the social security tax.

Relief from the impending recession may be offered in part by H.R. 7046, the Social Security Tax Credit Act. This bill provides a refundable credit against Federal income taxes equal to 10 percent of social security payroll taxes for fiscal year 1981, effective January 1, 1981.

With an impending recession now at hand, consideration of a tax cut must begin. The Department of Commerce's statistics indicate that social security taxes have indeed had an impact on the public, enough so that this tax cut is not only warranted, but necessary. Following is the text of an article appearing in the Washington Post concerning the recessionary statistics, for my colleagues and members of their staffs who may have missed it:

U.S. REPORTS FRESH SIGNS OF RECESSION

(By John M. Berry)

New evidence of a fast-developing recession was released yesterday by the government, and a top Carter aide said unemployment could hit 8 percent early in 1981.

Alfred Kahn, the president's chief inflation adviser, told a mayor's conference here that unemployment, 6.2 percent in March, could reach 7.5 percent by the end of this year and 8 percent a short time later.

"The country now faces the dilemma we have so long feared, the twin ugly evils of accelerating inflation and the long-predicted recession," the outspoken Kahn declared.

As Kahn spoke, the Commerce Department reported that its index of leading indicators, which usually foreshadows changes in the economy, plunged 2.6 percent in March, the third largest one-month decline since the series began in 1947.

The Labor Department added its own gloomy news on unemployment. Initial claims for unemployment benefits, seasonally adjusted, were filed in the week ended April 19 by 605,000 people—the highest level in the 13 years such information has been collected.

Separately, the Labor Department said that, because of inflation and higher taxes, as of last fall it took an average $12,585 for a family of four to have even a "lower" standard of living in an urban area. For the same family to have an "intermediate" standard of living required $20,517, and a "higher" standard took $30,317.

In each case, the Washington metropolitan area figure was the fifth highest of the 24 areas surveyed across the nation.

The budgets are calculated for a hypothetical family with a 38-year-old husband employed full time, a nonworking wife, a boy of 13 and a girl 8.

Such a family living in the Washington area would have to spend $13,631 to have the lower standard of living. Costs are higher only in Anchorage, Honolulu, San Francisco and Seattle.

An intermediate standard of living in Washington took $22,206, surpassed only in Anchorage, Honolulu, Boston and New York. The higher budget took $32,636 here, and was higher in the same four cities.

The lower budget rose 9 percent between 1978 and 1979, the department said. The intermediate and higher budgets rose more, 10.2 percent and 10.6 percent respectively, because of large increases in homeowner costs and Social Security taxes.

The Commerce Department released other economic statistics indicating a recession is underway.

New orders for factory goods fell 0.9 percent in March to $154.1 billion as a result of fewer purchases of autos, steel and other metals. The drop was the largest since last July.

On the other hand, orders for nondefense capital goods—items such as machine tools and other equipment in which business invests—rose 6.3 percent to $23.5 billion because of purchases of aircraft and non-electrical machinery. Some economic forecasters believe the recession will not be severe unless business investment falls sharply from present levels.

Also yesterday, the F. W. Dodge Division of McGraw-Hill reported that the value of new construction contracts declined 10 percent in March. "The construction market's reaction to anti-inflationary restraint is no longer limited to housing," the division's chief economist, George Christie, said.

Kahn's remarks surprised other administration economists, who said the official forecast calls for a 7.2 percent unemployment rate in the fourth quarter of this year, a further increase to about 7.5 percent in the first half of 1981, and a drop to 7.3 percent in the final three months of next year.

A minority of private economists, however, are predicting unemployment rates as high as 8 percent during this recession. Most do not believe it will go that high.

The plunge in the index of leading indicators was the result of sharp drops in stock prices, building permits and inflation-adjusted measures of the money supply and new orders for consumer goods from manufacturers.

Also contributing to the decline were a reduction in the length of the average workweek in manufacturing, an increase in the layoff rate in manufacturing, and a drop in some raw materials prices.

In a separate report, the Labor Department said that from February to March fewer people quit their jobs, fewer were hired, and more were laid off.●

SULLIVAN'S PRINCIPLES AT WORK IN SOUTH AFRICA

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. GRAY. Mr. Speaker, the House Africa Subcommittee has been conducting a series of hearings on the issue of American corporate involvement in South Africa. On Thursday, May 15, we had the pleasure to hear from the father of the fair employment code, the distinguished Rev. Leon Sullivan, pastor of the Zion Baptist Church in Philadelphia and founder and chairman of the board of the Opportunities Industrialization Center.

Reverend Sullivan's testimony is a timely and an accurate portrayal of the U.S. corporate involvement in that region, and I recommend it to my colleagues:

Mr. Chairman, my name is Leon Sullivan. I am a clergyman and Pastor of the Zion Baptist Church in Philadelphia.

I welcome this invitation to testify at this hearing of the Sub-committee on Africa of the Foreign Affairs Committee of the House of Representatives on the Fair Employment Code, established for American companies doing business in South Africa.

First, I want to state, unequivocally and categorically, that I am completely and to-

tally opposed to apartheid. I want to see its total elimination. This is the main objective in all that I am attempting to do in this regard, and although I am fully aware that the Principles cannot by themselves, eliminate apartheid, it is my aim and hope that they will help, along with other thrusts and forces, to bring an end to apartheid, all together, as soon as possible, and all the evils that it represents.

It is my utmost desire to work, along with others, towards that end. There are more than 600 million Black people in the world, and for the sake of humanity, justice and God given rights to people, we cannot permit apartheid to continue to exist on earth today. It must come to an end, one way or the other; and I am attempting to do what I can to help bring it to an end by using economic and humanitarian means, otherwise a violent answer is inevitable.

Briefly, to review the history of what has become generally known as the "Sullivan Principles," it must be realized that the development of the Principles must be seen cybernetically; this is to say, one thing led to another.

A number of years ago I supported the position that American companies should withdraw from the Republic of South Africa. In fact, in 1971, I stated this position, publicly, in a stockholder's meeting of the General Motors Corporation, of which I had become a Director, opposing the entire Board and the Company, on this particular matter.

For four years I held that position, until in 1975, on a trip to South Africa, primarily to establish an (OIC) Opportunities Industrialization Center, a Manpower Training Program for several school leavers and dropouts, in the small independent kingdom of Lesotho, I stopped over for a brief visit in the Holiday Inn, near the airport in Johannesburg. While there I met with many people all through the night and the day, most of whom had learned I was there because of a statement I made to the newspapers upon my arrival attacking apartheid. My condemnation of the system appeared in bold headlines. In the papers I invited any who wished to meet with me to discuss their views on the matter.

During the discussions that followed with Blacks, Asiatics, Colored and Whites, I was urged, over and over again, to attempt to see if it were possible to make American companies and other companies of the world, truly instruments for racial change in South Africa. I was told that it had never really been tried before. This was most clearly expressed in a letter I received from the Secretary of the Powerful Garment Worker's Union, on my return home, which read:

". . . (1) Basically, the point to be made is that rather than encourage the withdrawal of American capital from South Africa (We regard this as a negative act (a) it would not have 100% success and is therefore, a meaningless gesture and (b) it is negative in itself), you could take a positive stance and call for American companies in South Africa to recognize the same working conditions they employ in America * * *"

It was following that journey to South Africa, and after much prayer, consultation with my family, and deep consideration of what would be involved, that I decided, with the help of Almighty God, to begin this effort as a nonviolent initiative for change in South Africa.

At the onset, I was aware of the tremendous odds against succeeding, I was conscious of the depth and the deep-rootedness of apartheid in that country, and also aware of the fundamental nature of business; as being cold, and profit seeking, and too often unmoved by humanitarian needs. Nevertheless, I decided I would make the attempt.

In October 1975, I made the announcement to my Church of the effort I would make to help end discrimination against Blacks, and other non-whites, in companies in South Africa, and to help, along with others, towards the elimination of apartheid in South Africa. I asked for my church's prayers and support, My Church, one of the largest and most active congregations in America, has stood solidly behind me.

I then proceeded to organize American companies to unite and to act against racial discrimination in their own operations in South Africa, and to take a stand against apartheid. My efforts began with an unpublicized gathering of the Chairmen of 16 of America's largest corporations with interests in South Africa, at a place called Sands Point, New York in January of 1976. Many of the Chairmen were receptive to the idea.

Following that meeting, I proceeded to develop a set of "fair employment principles" to guide American businesses in their dealings with their Black and other non-white workers. I also outlined the role they should play, outside the work environment, for improving and changing the living conditions for non-whites in other aspects of their lives. The Principles were conceived and developed as an evolving process, so they could be strengthened and expanded, step by step.

In March of 1977, the first announcement was made of the first 12 signatory companies. Many meetings followed across America, and with much prayer, hard work and persuasion, an increasing number of companies became signators to the Principles. Approximately, one half of the companies joined because of pressure from interested schools and stockholders. Schools like Oberlin, The University of Minnesota and others, are to be commended for their efforts in this respect.

As of now, there are 135 participating companies; and according to a list supplied by the U.S. Department of State of American based African Affiliates, as of 1979, there are 160 companies that, as yet, have not signed the Principles.

All along I have told the companies that the vigorous and full implementation of the Principles is the key, and that companies must not use the Principles as a camouflage to hide behind. I have emphasized the importance of results, and that all companies who sign the Principles are expected to become a part of task groups, are expected to abide fully by the guidelines, and to report progress on a regular basis for evaluation, assessment and measurement.

I have stressed that results and accountability must be the watchword. According to reports I have received, many companies have given encouraging cooperation.

The services of the Arthur D. Little Company were secured to develop the reporting mechanism and to receive, compile, analyze and interpret reports from signatory companies and to help develop criteria for measurement of the implementation of the various aims of the Principles. The Arthur D. Little Company, in my opinion, has done an outstanding and objective job.

At the very early stages I travelled to Great Britain, Denmark and Sweden to secure international support for the Principles. Commitments of cooperation were received from companies in Sweden and Denmark. Also, later, following our visit, Great Britain, along with other European Common Market nations, developed their own Code of Conduct for South Africa, patterned after the Principles; as did Canada and business groups within the Republic of South Africa. There are now more than 13 Codes of Conduct from nations around the world for their South African operations. The Principles, which started as a ripple, became a wave.

Although the present 135 signatory companies represent 80% of the South African work force in American subsidiary companies, and although there is progress being shown and many reasons to be encouraged because the Principles are beginning to work, I am still far from being satisfied. The signatory companies can and must do much, much more. . . . So, I will be turning the screws, more and more.

Also, we need clear and broad participation of all 300 American companies in this effort, because, in order to achieve the goals that have been set, the full economic, technical and moral strength of all the American companies operating in South Africa, united behind the principles, is required.

This is particularly true for the furtherance of the educational objectives. We strongly believe that the development of an educational infrastructure for blacks and other non-whites in South Africa is essential for total liberation; and whatever happens in the country, the education of the people will be essential. Ultimately, the full support of all companies in South Africa and from around the world, behind educational, economic, social and other needs, on a massive scale, will be absolutely necessary for the kind of impact desired. This future need for the future internationalization of the Principles and the codes, with the necessary monitoring, makes it all the more important that all American companies participate in a united way to provide leadership for an international mobilization. The Principles provide American companies the opportunity to lead the way.

During the past year I have been visited, nearly every week, by representatives and leaders of the black, and other non-white population of South Africa. When I raised the question as to whether I should continue this effort, I have been requested, time and time again, to please continue and to not stop what I was doing. As a member of a prominent grass roots group who was visiting with me, when I raised the question, said: "I implore you, please do not stop what you are doing. It is too important to our people, not to continue." I am continuing to assess how far I should go in this effort on an ongoing basis. The degree of the future effectiveness of the Principles will be the determining factor.

Since the beginning in 1977, the Principles have, thus far, been a valuable catalyst for change. Many things now happening in South Africa are traceable to the influence of the Principles.

The Principles have, also, given South Africa its first viable, affirmative action program by which businesses can be measured for the equal treatment of their workers. They have also established a new worldwide sensitivity to the humanitarian role companies can and must play in South Africa, as well as other Third World nations.

The Principles now have their own momentum and will continue to change conditions. I must caution again, though, that we realize how much the Principles can accomplish. The Principles are a catalyst and they can help produce change, but they cannot end apartheid by themselves. The Principles can be a part of the solution, but, by no means, the whole solution. For, in order to totally eliminate apartheid, help must come from churches, unions, educational institutions, governments and worldwide public opinion. Also, there must be strong, supportive efforts by South African businesses and institutions, within the country, including the nonviolent efforts of the people themselves against the racial laws.

But, I deeply believe, if the Principles are fully implemented, and their guidelines followed by American companies, as well as by

companies with holdings in South Africa, worldwide; and I believe if these Principles are adopted and followed by South African owned companies within South Africa, as is now beginning to happen, the Principles can and will also play a major part in the ultimate total elimination of apartheid itself.●

FLOOD OF 1979 IN MISSISSIPPI

HON. JON HINSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. HINSON. Mr. Speaker, on Easter, 1979, unprecedented floods swept through the Fourth Congressional District and the State's capital city of Jackson. Thousands were displaced, many of whom were unable to return to their homes until some 6 months later.

The Pearl River, which overflowed her banks in the disastrous flooding of 1979, has been flowing at a near or above full capacity rate since that time. With the coming of the annual spring rains of this year, the Pearl River once again overflowed her banks, causing hundreds of people to evacuate their homes. Mr. Speaker, the chronic problem of Pearl River flooding is becoming progressively more severe and is causing and will continue to cause severe emotional and economic distress to the people of the Fourth District of Mississippi and surrounding areas.

Several years ago the Corps of Engineers evaluated a project located in the district represented by our distinguished colleague, Congressman G. V. "SONNY" MONTGOMERY, entitled the Edinburg Dam project. At that time, the project was found to be lacking in economic benefit. I have requested that the Corps of Engineers include in its study of the Pearl River basin flooding problems a thorough reinvestigation of the Edinburg Dam project in light of the devastating losses sustained in the Easter, 1979, flooding and the recurrent threat of flooding.

It would be impossible to evaluate the emotional damages done to the people of the Fourth Congressional District and surrounding areas. An estimate of the total economic losses in this area would be at best a rough estimate. There are, however, huge expenditures made by the Federal and State governments in the 1979 flood disaster that will indicate the magnitude of the losses. These costs included, but are not limited to, the following:

Temporary housing—$2,992,000.

Individual and family grant program—$9,000,000 (this reflects 75 percent of the total cost with the State of Mississippi bearing the remaining 25 percent).

Disaster unemployment—$800,000.

Public assistance from the presidential disaster relief fund—$23,020,000.

Public assistance through the Mississippi Defense Council—$16,243,000.

Individual assistance and grant program—$8,600,000.

Flood insurance policy payments—$20,206,000.

Small Business Administration loans approved—$74,231,000.

Red Cross—$2,271,000.

Corps of Engineers Rehabilitation of Levee System at Jackson—$3.2 million.

Federal Highway Administration—$4,000,000.

Office of Education for Jackson Municipal Separate District—$136,000.

Office of Education claimed for 1979-1980 loss of revenue—$628,084 (estimated).

Mississippi Employment Security Commission for Unemployment Insurance—$8,608,000.

Farmers Home Loan Administration emergency loan activity—$8,953,000.

Farmers Home Loan Administration economic emergency loan activity—$2,805,000.

I would like to call the attention of the Members of the House to a concurrent resolution of the Mississippi legislature which memorializes the President, Congress, and the Corps of Engineers to proceed with the construction of dams along the Northern Pearl River to alleviate the chronic flooding of that river. The text of Senate Concurrent Resolution No. 585 is as follows:

SENATE CONCURRENT RESOLUTION No. 585

A Concurrent Resolution Memorializing the President, Congress and Corps of Engineers to proceed with the construction of dams to alleviate Pearl River flooding.

Whereas, for the second straight year serious flooding is occurring along the Pearl River; and

Whereas, this consecutive year of natural disaster is exacting a devastating toll in both human suffering and economic loss; and

Whereas, there are projects planned which could in some degree alleviate the chronic problem of Pearl River flooding which is becoming progressively more severe; and

Whereas, these are dams which will be constructed along the Pearl or its tributaries and which could provide some regulation of water flow downstream:

Now, Therefore, be it resolved by the Senate of the State of Mississippi, the House of Representatives concurring therein, that we do hereby memorialize the President of the United States, the Congress of the United States and the U.S. Army Corps of Engineers to cause immediate commencement of construction of the Edinburg Dam on the Pearl River in Neshoba County and to expedite planning and construction of the Lobutcha and Yockanookany Dams.

Be it further resolved, that copies of this resolution be forwarded to the President, the Mississippi congressional delegation and the Corps of Engineers and that copies be made available to the capitol press.

Adopted by the Senate—April 15, 1980.

Adopted by the House of Representatives—May 5, 1980.

Disaster relief and assistance is an investment in a community's desire to rebuild itself. Productive, tax-paying citizens who have undergone natural disasters may be overwhelmed by the magnitude of the recovery effort that faces them. We must not allow this to happen. We must always stand ready to help our citizens whose only desire is to once again become self-sufficient. This applies equally whether we are talking of chronic flooding in Mississippi, tornadoes, earthquakes, volcanoes, or events such as the flooding in my sister State of Louisiana.

But where reasonable efforts can be made to prevent the occurrence of such disasters, such as dams and flood control projects in the upper reaches of the rivers of our Nation, I believe that a serious look should be given to the costs of the failure to provide such projects. It is my firm opinion that when measured against not only the loss to the Federal and State Governments of moneys expended in disaster relief, but also the tremendous cost in emotional and economic trauma to a community, projects such as the Edinburg Dam and the Lobutcha and Yockanookany Dams are cost-effective and fully worthy of our consideration.●

A CONSTITUENT'S VIEW OF FATHER DRINAN

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. ROSENTHAL. Mr. Speaker, I would like to bring to the attention of my colleagues a letter to the editor, printed in the New York Times on Thursday, May 15, 1980. It expresses the admiration and affection felt for Father DRINAN by his constituents which is equaled only by our respect.

A CONSTITUENT'S VIEW OF FATHER DRINAN

CHESTNUT HILL, MASS.,
May 7, 1980.

To the Editor:

The Rev. Robert F. Drinan has been my Congressman for all the years I have served the religious community of Newton. His choosing to follow the dictates of the church rather than seek re-election has once again raised the complex issue of church and state. I applaud both Drinan's devotion to conscience by withdrawing and his 10 years in Congress representing me, the individuals in my synagogue and all the citizens of diverse faiths and convictions within our Congressional District.

As a Jew, I am committed to the plurality of creative differences: *yarmulka* (skull cap) or Roman collar are testimony to the varieties of expression in the American mainstream. Father Drinan's espousal of a secure Israel and freedom for Soviet Jews was far more effective than any pronouncements or preachments by rabbi or Jew. Is not the highest humanity the pleading of another's cause, rising above parochialisms? Drinan's collar was eloquent testimony to his all-embracing humanity.

Leaving the merits of the Pope's decision aside, I must say how much I admire Drinan's decision of conscience to forgo the halls of power, prestige and prominence, to return to the sacraments of the church. America needs to be reminded occasionally that politics is not the highest "calling" and that politics functions best when those who are true to their convictions speak out courageously, even to their own seeming detriment. The ultimate religious or political act is being faithful to a moral and ethical calling.

Representative Father Drinan was not a contradiction or paradox. Church and state as institutions are separate, but a man of good will, whatever his creed, habit or vestment, is ample testimony of a particular religious faith serving faithfully and representing fairly all citizens of the community.

May Robert F. Drinan go from strength to strength. We will greatly miss him.

RICHARD M. YELLIN,
Rabbi.●

HOUSING ALTERNATIVES

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. BIAGGI. Mr. Speaker, I am introducing legislation today to amend section 8 of the U.S. Housing Act of 1937 for the purpose of providing more housing alternatives for lower-income single individuals and married couples. This initiative stems from a study that I have been conducting on the issue of single room occupancy hotels (SRO's).

By definition, SRO's are hotels, roominghouses, or converted apartment buildings which offer furnished rooms, shared bathrooms and kitchens, and some management services such as desk, linens, and housekeeping. The buildings, often old and poorly maintained, house a diverse group of individuals who, nevertheless do share a common characteristic. Without exception, all SRO tenants have very small incomes. The vast majority live on fixed incomes derived from supplemental security income, social security, and public assistance.

Shelter is one of the basic necessities of life which you and I generally take for granted. However, for the thousands of less fortunate individuals throughout the country, adequate housing is a difficult commodity to come by. Presently our Nation is experiencing a housing shortage of epidemic proportions. Unfortunately, it is the most vulnerable segments of the population—the low-income, the elderly, and the disabled—who must shoulder the burden of somehow obtaining and financing adequate living quarters from a dwindling and increasingly costly supply. In my hometown of New York City in 1975 for example, 52 percent of the elderly renters lived alone and paid between 25 and 40 percent of their limited incomes on rent—leaving a mere $150 per month for all other expenses.

My legislation would make the section 8 program a viable one for the SRO community by providing incentives for landlords to maintain their buildings so as to qualify for leasing and assistance with costs and improvements. This would allow SRO hotels to maintain solvency and undergo repairs without major tenant displacement.●

AUBURN UNIVERSITY SOIL JUDGING TEAM

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. NICHOLS. Mr. Speaker, this year the Auburn University soil judging team won an unprecedented third national championship in a row. This is a noteworthy accomplishment considering the competition is among the finest agriculture schools in America.

I believe these future American agriculture experts should be duly congratulated for their accomplishments and a special recognition should go out to the professors and teachers whose guidance and instruction have provided the foundation for Auburn University's consistent successful showings in national competition.

For the RECORD of this body I enclose a press release issued by the university and a resolution adopted by the House of Representatives of the State of Alabama commending the Auburn University soil judging team and coaches for their outstanding accomplishments.

AUBURN, ALA.—It's the third national championship in a row for Auburn University's soil judging team—the first time in history that any team has won in three consecutive years.

The Auburn team claimed the championship trophy by beating out 16 regional championship teams from across the country in the finals at Pennsylvania State University, says team coach Dr. Ben Hajek, Professor, Department of Agronomy and Soils.

Team members, all students in Auburn's School of Agriculture, are David Bridges, Dawson, Ga.; Ronnie Jernigan, Jay, Fla.; Donnie Parrish, Enterprise; Ramona Pelletier, Jacksonville, Fla.; and William Puckett, Dothan. Dr. Hajek recognized individual accomplishments of Puckett, who was fourth high overall in the contest, and Jernigan, who placed fifth.

Hajek, who does soils research for Auburn's Agricultural Experiment Station as well as teaching soils courses in the School of Agriculture, has coached all three of the championship Auburn teams. This also represents an unprecedented accomplishment that is evidence of his expertise as a soil scientist, notes Agriculture Dean Dr. R. Dennis Rouse.

Two members of the 1980 team, Bridges and Jernigan, also competed in the 1979 competition, Hajek notes. Except for these repeat members, each of the three championship teams has been made up of students who had not previously competed in the event.

RESOLUTION COMMENDING THE AUBURN UNIVERSITY SOIL JUDGING TEAM FOR AN UNPRECEDENTED THIRD NATIONAL CHAMPIONSHIP

Whereas the Auburn University Soil Judging Team composed of students David Bridges, Ronnie Jernigan, Donnie Parrish, Ramona Pelletier, and William Puckett in the School of Agriculture placed first in the 20th annual National Collegiate Soil Judging Contest at University Park, Pennsylvania, on April 18, 1980; and

Whereas this was the third consecutive year that the Auburn team has placed first, which is unprecedented in the history of the contest; and

Whereas this team was coached by Dr. Ben Hajek, outstanding soil scientist in the Department of Agronomy and Soils, who also coached the previous two years' winners; and

Whereas this team competed against 16 regional championship teams from major universities across the nation; and

Whereas the soil is one of our nation's most important natural resources; and

Whereas the Number One Soil Judging Team in the nation has brought honor and distinction both to Auburn University and to the entire State of Alabama: Now, therefore, be it

Resolved by the House of Representatives of the Legislature of Alabama, That we commend and congratulate members of the Auburn University Soil Judging Team and their coach for this outstanding accomplishment; and be it further

Resolved, That a copy of this resolution be sent to the president of Auburn University, to the Dean of the School of Agriculture, and to the team members and their coach.●

SAD DAY FOR THE UNITED STATES AND SOUTH KOREA

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. WOLFF. Mr. Speaker, the news reports this weekend out of Miami, and across the Pacific from South Korea, were not encouraging for those who are concerned with the progress of political and legal rights, and who are concerned over the ability of the United States to promote such concepts around the globe, as well as here at home.

I raise the tragic situation in Miami because it dramatizes the fact that we in the United States still have a distance to travel along the human rights road. If it is possible to find a positive note in what is still an ongoing situation, I think it is that since we are such an open society, the tragedy in Miami will not go unnoticed, nor, I am confident, will the causes of the tragedy be ignored, and no remedy attempted.

It is this basic confidence in our institutions and our people, this sense of hope that even in adversity we will honestly strive to overcome our difficulties, which gives me the confidence to address another ongoing social tragedy, the reimposition of strict martial law in our friend and ally, South Korea.

Korea has represented a vital security interest to the United States since the end of World War II. We have fought in one war there, and have striven to promote security on the Korean Peninsula ever since. In recent

years, the realization that internal stability is directly linked to external security has become increasingly clear, particularly regarding South Korea. Thus, today we must be as concerned for Korea's internal stability as we have been and will continue to be for her external security.

Last January, I was privileged to lead a delegation which spent 3 days in South Korea, as part of an 18-day mission to Asia. We met with men and women from all walks of Korean life, including prominent members of the Government, the military, and the opposition political parties.

It is my sad duty today to note the arrest of many of those with whom we talked, including Kim Daejung, the former Presidential candidate, and Kim Jong-pil, head of the Government's own Democratic-Republican Party. I trust they will be swiftly released.

In January, the situation in South Korea was still very sensitive following the twin shocks of the assassination of President Park in October, and the military actions of December.

Great concern was expressed by most of the people with whom we met as to the future political activities of the military in South Korea, and the ability of the civilian government to work its way through the very sensitive and difficult problems it faced. Significantly, most of our conversations dwelt at length on the role of the students on the college campuses, and what the military reaction might be in the event of student unrest.

Last week, those fears came to reality, and with the President out of the country, the military moved swiftly, crushing the hopes of those of us who had thought that Korea was slowly but firmly emerging from the uncertainties of recent months.

President Choi cut short his journey to return to Korea and address the student protesters who were demanding an end to martial law, and free elections. We will never know whether he could have forestalled further escalation, nor if the Government could have continued the progress toward free elections which had been so heartening in recent months.

Now, for civilian government, for legal and political rights in South Korea the task must begin again, with many of the key personalities taken out of the picture, and many of the key institutions weakened by the loss of their leadership, not to mention their morale in the wake of the weekend's events, and in the face of an uncertain future.

At this critical time for democracy in Korea, I call on the Congress, the State Department, and the President, to make our views known, and to reaffirm our commitment to fostering democracy in South Korea.

I hope that in the coming days, our Government will officially inform the Korean Government of the concerns of the American people over the tragic events of the last week.

I hope that in the coming days, the Congress will also speak out for the democratization of Korea to insure its internal security and in defense of the liberties which we all hope will yet be the final outcome for the people of South Korea.●

GOLD VERSUS FRACTIONAL RESERVES

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. PAUL. Mr. Speaker, recently more and more public interest has been aroused in the gold standard. Unfortunately, some of the proposals that have been made in the name of the gold standard are not sound money proposals at all but would merely put gold only partially—and revocably—into our present money system.

The noted economist Henry Hazlitt has published an excellent essay that presents the case for a full 100 percent gold coin standard. I call excerpts from that essay to my colleagues' attention, for the present inflation will soon force us to make a choice between a free economy with a sound money system or a totalitarian economy with a paper money system, price and wage controls, and rationing.

The excerpts follow:

GOLD VERSUS FRACTIONAL RESERVES

The present worldwide inflation has done, and will continue to do, immense harm. But it may eventually lead to one great achievement. It may make it possible to restore (or perhaps it would be more accurate to say to create) a full 100 percent gold standard.

That could come about in a simple manner. Our government has made it once more legal to hold gold, to trade in gold, and to make contracts in terms of gold. This makes it possible for private individuals to buy and sell in terms of gold, and therefore to restore gold as a medium of exchange. If our present inflation, as seems likely, continues and accelerates, and if the future purchasing power of the paper dollar becomes less and less predictable, it also seems probable that gold will be more and more widely used as a medium of exchange. If this happens, there will then arise a dual system of prices—prices expressed in paper dollars, and prices expressed in a weight of gold. And the latter may finally supplant the former. This will be all the more likely if private individuals or banks are legally allowed to mint gold coins and to issue gold certificates.

But even of the small number of monetary economists who favor a return to a gold standard, probably less than a handful accept the idea of such a 100 percent gold standard. They want a return, at best, to the so-called classical gold standard—that is, the gold standard as it functioned from about the middle of the nineteenth century to 1914. This did work, one must admit, incomparably better than the present chaos of depreciating paper monies. But it had a grave weakness: it rested on only a fractional gold reserve. And this weakness eventually proved its undoing.

NOT ENOUGH GOLD?

The advocates of the fractional gold standard, however, saw—and still see—this weakness as a strength. They contend that a pure gold standard was and is impossible; that there is just not enough gold in the world to provide such a currency. Moreover, a pure gold standard, they argue, would be unworkably rigid. On the other hand, a fractional reserve system, they say, is flexible; it can be adjusted to "the needs of business"; it provides an "elastic" currency.

We will come back to these alleged virtues later, and examine them in detail, but first I should like to call attention to the central weakness of a fractional reserve system: it embodies a long-term tendency to inflation.

Let us begin with a hypothetical illustration. Suppose we have a world in which the leading countries have been maintaining a 100 percent gold standard, that they begin to find this very confining, and that they decide to adopt a fractional gold standard requiring only a 50 percent gold reserve against bank deposits and bank notes.

The banks are now suddenly free to extend more credit. They can, in fact, extend twice as much credit as before. Previously, assuming they were lent up, they had to wait until one loan was paid off before they could extend another loan of similar size. Now they can keep extending more loans until the total is twice as great. The new credit plus competition causes them to lower their interest rates. The lower interest rates tempt more firms to borrow, because the lower costs of borrowing make more projects seem profitable than seemed profitable before. Credit increases, projects increase, and there is a "boom."

So reducing the gold reserve requirement from 100 percent to 50 percent, it appears, has been a great success. But has it? For other consequences have followed besides those just outlined. Production has been stimulated to some extent by lowering the reserve requirement; but production cannot be increased nearly as fast as credit can be. So as a result of increasing the credit supply most prices have practically doubled. Twice the credit does not "do twice the work" as before, because each monetary unit now does, so to speak, only half the work it did before. There has been no magic. The supposed gain from doubling the nominal amount of money has been an illusion.

And this illusion has been bought at a price. Lowering the required gold reserve to 50 percent has enabled the banks to double the volume of credit. But as they begin to approach even the new credit limit, available new credit becomes scarce. Some banks have to wait for old loans to be paid off before they can grant new ones. Interest rates rise. New projects have to be abandoned, as well as some incompleted projects that have already been launched. A recession sets in, or even a financial panic.

And then, of course, the proposal is made that the simple way out is to reduce the gold-reserve requirement once again, so as to permit a still further creation of credit.

THE FEDERAL RESERVE ACT

Historically, this is exactly what has been happening. Space does not permit a detailed review of what has happened in one nation after another, starting, say, after the adoption in England of Sir Robert Peel's Bank Act of 1844. But we can point to a few

sample changes in our own country, beginning with the Federal Reserve Act of 1913.

That act set up twelve Federal Reserve Banks, and made them the repositories for the cash reserves of the national banks. The first thing that was done was to reduce the reserve requirements of these commercial banks. Under the national banking system the banks had been classified according to the size of the city in which they were located. They were Central Reserve City Banks, Reserve City Banks, and Country Banks. These were required to keep reserves, respectively, of 25 percent of total net deposits (all in the bank's own vaults), 25 percent of total net deposits (at least half in the bank's own vaults), and 15 percent of total net deposits (two-fifths in the bank's own vaults).

The Federal Reserve Act classified deposits into two categories, demand and time, with separate reserve requirements for each. For demand deposits the act reduced the reserve requirements to 18 percent for Central Reserve City Banks, 15 percent for Reserve City Banks, and 12 percent for Country Banks. In each case at least one-third of the reserve was to be kept in the bank's own vaults. For time deposits the reserve was only 5 percent for all classes of banks.

In 1917, as an aid in floating government war loans, the reserve requirements were further relaxed, to 13, 10, and 7 percent respectively, with only a 3 percent reserve requirement for time deposits. Though the amendment also required that all reserve cash should thereafter be held on deposit with the Federal Reserve Banks, the amount of till or vault cash necessary to meet daily withdrawals was found to be small.

In addition to this lowering of the reserve requirements of the member banks, the Federal Reserve System provided for the building of a second inverted credit pyramid on top of the one that the member banks could build. For the Federal Reserve Banks themselves were authorized to issue note and deposit liabilities against their gold reserves, which were required to total only 35 percent against deposits.

As a result of such changes, if the average reserves held by the commercial banks against their deposits were taken as 10 percent, and the gold reserves held by the System against these reserves at 35 percent, the actual gold held against the commercial deposits of the System could be reduced to as low as 3.5 percent.

What actually did happen is that between 1914 and 1931, total net deposits of member banks increased from $7.5 billion to $32 billion, or more than 300 percent in less than two decades.[1]

These figures continued to grow. Gold reserve requirements were finally removed altogether. In August, 1971, when the United States officially went off the gold standard, the money stock, as measured by combined demand and time deposits plus currency outside of banks, was $454.5 billion. The U.S. gold reserves were then valued at $10.2 billion. This meant that the money stock of the country had been multiplied more than sixty times over that of 1914, and the gold reserve against this money stock had fallen to only 2.24 percent. Put another way, there was then $44 of bank credit issued against every $1 of gold reserves.

EXHAUSTING THE GOLD RESERVE

The situation was actually more ominous than these figures suggest. For under the gold-exchange system of the International Monetary Fund, it was not merely the American dollar, but the total currencies of practically all the nations in the Fund, that were supposed to be ultimately convertible into the U.S. monetary gold stock. The miracle is not that this gold exchange system collapsed altogether in August of 1971, but that it did not do so much sooner.

In short, the fractional gold standard tends almost inevitably to become more and more attenuated, and while it does so it permits and encourages progressive inflation.

When the gold standard is abandoned completely and officially, inflation usually accelerates. This has been illustrated in the more than seven years since August, 1971. At the end of 1978, the money stock, counting both demand and time deposits, had risen to $871 billion—nearly double the figure at which it stood in August, 1971.

But what happens as long as the fractional gold standard is being nominally maintained is that the milder rate of inflation is less noticed, and even many monetary economists are inclined to view it with complacency. This is partly because they have a reassuring theory of what is happening. The amount of currency and credit, they say, is responding to the "needs of business." The loans on which the deposits or Federal Reserve Notes are based represent "real goods." A manufacturer of widgets, for example, borrows a six-month loan from his bank to meet his payroll and other production costs, then when he sells his goods he pays off the loan with the proceeds, and the credit is cancelled. It is "self-liquidating." The money is therefore "sound"; it cannot be over-issued, because it increases and contracts with the volume of business activity.

What this theory overlooks is that while the individual loan may be self-liquidating, this is not what happens to the total volume of credit outstanding. Manufacturer Smith's loan has been repaid. But under the fractional reserve system, the bank, as a result of this repayment, now has "excess reserves," which it is entitled to re-lend. Of course if the bank is fully lent up, even under a fractional reserve system, it cannot extend credit further. But when a substantial number of banks are seen to be nearing this point, pressure comes from all sides—from the banks and their would—be borrowers, and from the government monetary authorities and the politicians who have appointed them—to lower the reserve requirements further. If nothing has gone wrong so far with the existing fractional reserve, indeed, there seems to be no harm in reducing the fraction further. It will permit a further expansion of credit, reduce interest rates, and prevent a threatened business recession.

In sum, to repeat, a fractional-reserve gold system, once accepted, must periodically bring about business and political pressure for a further reduction of the fractional reserve required.

THE HARMFUL CONSEQUENCES

We have now to examine the harm that the system does whether or not the pressure to reduce the reserve requirements is continuously successful.

Let us begin with a situation in, say, Ruritania, which has a fractional-reserve gold standard and a central bank, but in which business activity has not been fully satisfactory. The central bank then either lowers the discount rate, or creates more member-bank reserves by buying government securities, or it does both. As a result, business is encouraged to increase its borrowing and to launch on new enterprises, and the banks are now able to extend the new credit demanded.

As a consequence of the increased supply of money and credit, prices in Ruritania rise, and so do employment and money incomes. As a further result, Ruritanians buy more goods from abroad. As another result, Ruritania becomes a better place to sell to, and a poorer place to buy from. It therefore develops an adverse balance of trade or payments. If neighboring countries are also on a gold basis, and inflating less than Ruritania, the exchange rate for the rurita declines, and Ruritania is obliged to export more gold. This reduces its reserves and forces it to contract its currency and credit. More immediately, it obliges Ruritania to increase its interest rates to attract funds instead of losing them. But this rise in interest rates makes many projects unprofitable that previously looked profitable, shrinks the volume of credit, lowers demand and prices, and brings on a recession or a financial crisis.

If neighboring countries are also inflating, or expanding the volume of their money and credit at as fast a rate, a crisis in Ruritania may be postponed; but the crisis and the necessary readjustment are all the more violent when they finally occur.

THE CYCLE OF BOOM AND BUST

The fractional-reserve gold standard, in short—especially when it exists, as it usually does, with a central bank, a government and a public opinion eager to keep expanding credit to start a "full employment" boom or to keep it going—brings about what is known as the business cycle, that periodic oscillation of boom and bust that socialists and communists attribute, not to the monetary and credit system and central banking, but to some inherent tendency in the capitalist system itself.

I need describe here only in a general way the process by which credit expansion brings about the boom and the inevitable subsequent bust. The credit expansion does not raise all prices simultaneously and uniformly. Tempted by the deceptively low interest rates it initially brings about, the producers of capital goods, borrow the money for new long-term projects. This leads to distortions in the economy. It leads to overexpansion in the production of captial goods, and to other malinvestments that are only recognized as such after the boom has been going on for a considerable time.

When this malinvestment does become evident, the boom collapses. The whole economy and structure of production must undergo a painful readjustment accompanied by greatly increased unemployment.

This is the Austrian Theory of the trade cycle, which I need not expound here in all its complex detail because that has already been done fully and brilliantly by such writers as Mises, Hayek, Haberler, and Rothbard.[2]

THE WORLD ADRIFT IN TURBULENT SEAS OF PAPER MONEY

My chief concern in this article has been to show that in addition to being the principal institution responsible for bringing about the cycle of boom-and-bust that has plagued the civilized world since the early nineteenth century, the fractional-reserve standard, once its principle of "economizing the use of gold" has been fully accepted, itself encourages an inflation that has no logical stopping place until gold has been "phased out" altogether, and the world is adrift in the turbulent seas of paper money.

[1] See "Money and Man," by Elgin Groseclose (University of Oklahoma Press), pp. 215-219.

[2] In addition to larger works of these four writers that include discussions of the subject, the interested reader may consult the pamphlet, "The Austrian Theory of the Trade Cycle," which contains an essay by each of them (Center for Libertarian Studies, 200 Park Avenue South, Suite 911, New York, N.Y. 10003. $3.00).

In emphasizing this weakness of fractional-reserve standard, I do not intend to imply that I have solved the baffling problem of creating as ideal money—assuming that that problem is even soluble. An opportunity now exists—for the first time in a couple of centuries—to introduce a 100 percent gold reserve standard. But if sufficient new gold supplies were not regularly available, such a standard could conceivably result over time in a troublesome fall in commodity prices. Moreover, unless there were rigid prohibitions against it, a private no less than a government money would soon tend to become a fractional-reserve standard. And if we allowed this, would we not soon be on the road once more to a constantly diminishing fraction, and at least a constant mild inflation?

I confess I do not have confident answers to these questions. But that does not invalidate my criticisms of a fractional-reserve standard. I should like to point out, incidentally, that expanding the money supply through a fractional-reserve standard—mainly for the purpose of holding down the exchange-value of the individual currency unit and thereby preventing a fall in prices—could also be accomplished under a full gold standard by constantly or periodically reducing the weight of gold into which the dollar (or other unit) was convertible. Such a proposal was once actually made by the economist Irving Fisher. I am unaware of any economist who accepts such a proposal today. But it is no different in principle from steadily expanding the money supply—under either a paper or a fractional-reserve gold standard—for the purpose of holding down the purchasing power of the monetary unit. Is this a power we would want to trust to the politicians?●

A TRIBUTE TO SISTER HELEN MARY CLEMENTS

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. WAXMAN. Mr. Speaker, earlier this month, the Congress took the time to honor a very special woman who spent the majority of her adult life serving others. On May 1, 1980, a statue of Mother Joseph, foundress of the Sisters of Providence, was placed permanently in Statuary Hall, where all who will visit the U.S. Capitol can be a witness to this one woman's accomplishments in the fields of health care and education.

Mr. Speaker, I would like to take this time to honor another very special woman who will celebrate her 50th year of service and genuine concern for others—the aged, the sick, and especially the dying.

Sister Helen Mary Clements, a native of the State of Maryland, became a sister of Bon Secours in 1930. Her list of accomplishments is long. During the 1930's, Sister Helen Mary was involved in home nursing care, which was the fundamental mission of her religious community at that time. In the early 1950's, she became administrator of the Bon Secours Hospital in Grosse Point, Mich., and supervised that hospital's expansion. During the years 1955 to 1961, she was the administrator of the Bon Secours Hospital in Methuen, Mass. In 1961, Sister Helen Mary was elected provincial of the American Province of the Congregation of the Sisters of Bon Secours, and held that position until 1967. Subsequently, she became administrator of the Villa Maria Nursing Home in Miami, Fla., where she oversaw the construction of the present new and modern facility. She is presently the director of development at Villa Maria.

I would like to join Sister Helen Mary's family and friends—and especially the Congregation of the Sisters of Bon Secours—who will celebrate with her on May 26, 1980, in giving thanks for all that Sister Helen Mary has shared over the past 50 years. She has brought constant concern, warmth, and a special dignity to all whose lives she has touched. I wish her many more years in which to continue her important work.●

TAX TREATMENT OF CO-OP TENANT STOCKHOLDERS

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. ASPIN. Mr. Speaker, I am today introducing legislation to put co-op—cooperative housing corporations—owners on the same tax footing as all other homeowners.

Section 216 of the Internal Revenue Code now requires that at least 80 percent of the gross income of a co-op corporation be derived from individuals who are tenants as well as stockholders. If for any reason, a co-op gets less than 80 percent of its gross income from individuals, then all the other tenants lose their income tax deductions for their shares of interest payments on the mortgage and real estate taxes.

There are no similar restrictions for condominium dwellers.

Section 216 has created a situation where the tail is wagging the dog. If a tenant-stockholder dies and his estate then makes payments to the co-op's corporation, it works to the detriment of the other tenants.

The statute as written has led to serious, perverse economic effects. For example, co-op's having commercial spaces are forced to rent them at artificially low rents or else the tenants lose their income tax deductions. It is a subsidy for commercial ventures. The U.S. Treasury isn't making a penny from this. The real losers are co-op apartment dwellers.

My bill lowers from 80 percent to 50 percent the minimum level of tenant-derived gross income required for a co-op to keep its tax deduction. This change will constitute an improvement in the present situation. Let me explain why.

BACKGROUND

Under section 216 of the Internal Revenue Code, a tenant-stockholder in a cooperative housing corporation may deduct the amount paid to the corporation constituting his or her proportionate share of allowable real estate taxes and interest relating to the corporation's land and buildings. In addition, to the extent a tenant-stockholder uses property leased from the co-op for business purposes, that is, for income production, he or she may take depreciation deductions with respect to his or her share of the cost.

An organization qualifies as a co-op, so that the tenant-stockholders can claim these deductions, when 80 percent or more of the corporation's gross income derives from the tenant-stockholders themselves. Also, only individuals qualify as tenant-stockholders. Hence, if banks or other corporations, trusts, estates, and other nonindividual taxpayers own a significant portion of the stock, the organization is disqualified. Consequently, the other individual qualified tenant-stockholders lose their income tax deductions.

This rule has been part of the Internal Revenue Code since the first provisions relating to cooperative housing corporations were enacted in 1942. Since then four changes have been made.

In 1969, a provision was added to section 216 of the code providing that, for purposes of the 80-percent test, Government stock ownership or unit leasing to provide housing not be taken into account.

In 1976, section 216 was amended to allow banks and other lending institutions obtaining stock in co-op through foreclosure to be treated as tenant-stockholders for up to 3 years after such acquisition.

In 1978, the section was amended to allow an original seller, for example, a corporate promoter who acquires co-op stock either by purchase or foreclosure, to be treated as a tenant-stockholder for up to 3 years after the stock's acquisition.

The Technical Corrections Act of 1979, enacted in 1980, refined the 1978 change to include stock acquisitions by exchange. I note that, except for foreclosures, the law does require that in exchanges the original seller's stock must be turned over not later than 1 year after the date on which the housing units—or leaseholds therein—are transferred by the seller to the corporation. Furthermore, the 1979 act extends this same tax treatment to a deceased original seller's estate.

THE PRESENT RULE HAS SERIOUS PROBLEMS

The four changes made since 1969 were specifically designed to address problems resulting from the application of the 80-percent test. But there are yet other problems with the test which, when properly examined, deny the validity of any justification what-

soever for the rule. Let us just take a couple of examples.

The requirement that only an individual can be a tenant-stockholder creates obvious problems, because it fails to include corporations, most trusts or, except for original sellers, estates. Also, the rule is unclear with relation to the treatment of estates and the corporations themselves; an estate may qualify as a tenant stockholder for tax purposes but the rent it pays may be unqualified in the hands of the corporation. Consequently, if due to death or bankruptcy an individual tenant-shareholder's stock is held by an estate, his and all of the co-op's other tenant-stockholders tax deductions may be denied.

In just these two examples, it is easily seen that a relatively small number of stockowners could voluntarily or involuntarily disqualify everyone's otherwise legal tax deduction. The same small number of persons whose actions cause the loss of tax benefits to the others are not themselves adversely affected since they usually obtain tax deductions for the amounts as business or investment expenses; to emphasize: only those who are otherwise qualified tenant-stockholders lose their tax deductions.

NO REASON FOR THE RULE

I have looked, in view of the problems, at the legislative history of the 80-percent requirement to see if there's a reason for keeping it on the books. I have been unsuccessful. The legislative history does not set forth the reasons for the 80-percent requirement. I can, as everyone else, hypothesize a couple of reasons. Perhaps Congress believed it important to restrict the benefits of section 216 to primarily residential properties, and not to make them available to commercial operations. Maybe Congress was concerned that some sort of tax avoidance could be created where a substantial commercial interest was involved—such as, using portions of the operating expenses incurred by the corporation to cover otherwise nondeductible personal expenses. It could have been the worry that if a corporation anticipated reportable profits from its commercial properties, it might reduce the rent collected from its tenant-stockholders by an amount sufficient to produce a loss for tax purposes equal to the commercial profits, the corporation would thus report no taxable income. The 80-percent test may have been thought to limit such potential abuses. Straw men in view of the facts.

First of all, several judicial decisions limit the ability of co-op's to take tax deductions generated by the type of hypothetical activities I just described. Second, section 277 of the code, enacted in 1969, prevents co-op's as membership organizations from offsetting nonmember income with losses from membership activities. The 1976 act's legislative history emphasizes that section 277 is intended to apply to co-op's. The point I am making is that it is not necessary to rely on the 80-percent test to limit potential tax abuses, both the courts and Congress have seen to that elsewhere.

In brief, I fail to discover the reason for the existence of the 80-percent rule in section 216 of the Internal Revenue Code. Even hypothesizing a couple of reasons, I do find that the judicial and legislative history relevant to the rule invalidates whatever realistic albeit conjectural justification may exist for the rule. At minimum, the courts and Congress have already addressed potential tax abuses.

RULE HAS ECONOMIC AND EQUITY PROBLEMS

In addition to the flaws highlighted above, the 80-percent rule does result in perverse economic effects. For one thing, the tax law forces tenant-stockholders to lease the commercial spaces in the buildings at artificially low rents in order to stay qualified for income tax deductions. The beneficiary of this situation often is the prior owner of the building, who built it for the corporation but retains a net lease of the commercial space. This is a distortion of ordinary economic practices to the financial detriment of the tenant-stockholders.

For another, the rule unjustifiably discriminates against co-op's by imposing requirements not imposed on condominiums. There is no 80-percent requirement at all for condominiums. In fact, it seems to me that the lack of any such requirement for condominiums is evidence that it is not needed for cooperative housing corporations.

THE SOLUTION: AT LEAST CHANGE THE TEST IF NOT ELIMINATE IT COMPLETELY

The bill I am introducing today would lower the 80-percent requirement to 50 percent, that is, to qualify as a cooperative housing corporation, an organization would need to derive only 50 percent of its income from individual tenant-stockholders. This change should reduce the problems that many co-ops have in improving the income tax protection for their eligible tenant-stockholders relative to that now afforded to condominum and other housing dwellers. It also deals with the problems of co-op tenant-stockholders on a more comprehensive and I think thoughtful basis than the patchwork enactments of 1969, 1976, and 1978, and earlier this year. Finally, it eliminates the need for continued erratic legislative hodgepodge in the future.

FINAL COMMENT

I hope that this bill can be scheduled for hearings at an early date. I urge interested witnesses to comment on the desirability of eliminating the percentage requirement entirely and on any other problems of section 216, as well as on the merits of this bill. This is only a beginning as there are still other provisions of section 216, which may be unduly burdensome and unnecessary. For example, the ambiguous requirement that a tenant-stockholder's shares be "fully paid up," or the similarly ambiguous requirement that only individuals qualify as tenant-stockholders might be reconsidered.

Finally, a question may be raised whether a person can qualify as a tenant-stockholder if the apartments are subject to local rent control laws preventing the eviction of existing tenants; this issue, also, should be considered.

Mr. Speaker, I hope that this bill might serve as the vehicle for eliminating unnecessary tax treatment problems of tenant-shareholders of cooperative housing corporations so that the tax law may take a more desirably neutral position between its use in cooperative housing corporations and condominums.●

HOWARD UNIVERSITY: SEEDBED OF BLACK LEADERSHIP

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. FAUNTROY. Mr. Speaker, in our Nation's Capital, Howard University has for years been the symbol of achievement for black America. It is an institution of tradition, aspirations, and dreams. The Los Angeles Times in a recent article captured the essence of this great symbol. The article provides a unique look at America's premier black university. The article follows:

HOWARD UNIVERSITY: SEEDBED OF BLACK LEADERSHIP

(By Charles Hillinger)

WASHINGTON.—There is no other university like it in the world.

It has the greatest concentration of black scholars of any institution of higher learning.

Howard University has been America's premier black university since its founding 113 years ago.

It is a university that graduates more black doctors, lawyers, educators, dentists, architects, journalists, pharmacists, academicians, engineers, social workers and businessmen than any other.

"Howard is the consummate expression of the black perspective," Dr. James E. Cheek, 47, Howard president for 11 years, said in an interview in his offices.

"To black Americans Howard is both the symbol and reality of the black presence, the black meaning in America's future. This campus is truly unique.

"Here are 17 schools and colleges, a dozen research institutes, a commercial radio station, an educational television station, the only black academic press in the world, one of the foremost health care centers in the nation, a law school renowned as the West Point of the civil rights movement.

"Here the nation's outstanding black young men and women are exposed to the best black minds in America."

Howard graduates are a Who's Who of black America, men and women like Supreme Court Justice Thurgood Marshall, former U.N. Ambassador Andrew Young,

Cabinet member Patricia Roberts Harris, singer Roberta Flack, rights activist Vernon Jordan, diplomat Ralph Bunche and former Sen. Edward Brooke.

Reared against the eastern sky
Proudly there on hilltop high,
Far above the lake so blue stands old
Howard firm and true.
There she stands for truth and right,
Sending forth her rays of light.
Clad in robes of majesty;
O Howard, we sing of thee.

These words of Howard's alma mater are sung proudly by the more than 11,000 undergraduate and graduate students and by alumni at annual dinners throughout the country such as the one that was held Saturday in the Embassy Room of the Ambassador Hotel in Los Angeles.

Strolling through the 75 acres of the main campus of one of the highest elevations in the nation's capital is like strolling through the pages of black history.

Dormitories and classroom buildings are named after abolitionist leaders and famed black educators—Sojourner Truth Hall, Frederick Douglass Hall, George Washington Carver Hall, Alain Locke Hall, Mary McLeod Bethune Hall, George William Cook Hall . . .

Still standing are historic old buildings such as Freedmen's Hospital, replaced in 1976 by a new $43-million, 500-bed medical center. Freedmen's Hospital was originally built for former slaves who were barred from other hospitals in Washington.

"I dearly love this place," mused Barbara Tollerson, community relations and special events coordinator, as she showed visitors around the campus. A 1949 graduate, Tollerson never left Howard.

"It is such a special place for blacks, the traditions, the history, the legacy and challenges for all of us here today." she said. "Note the pride in these young people. They're very serious. They're dedicated. They come to learn, not to fool around. The academic standards are tough.

"It isn't easy to get into Howard. We have the top black students in the country enrolled, young men and women who qualify for acceptance at Harvard, Yale, Stanford, UCLA, but come here instead to become the black leaders of America."

Beverlee Bruce, 44, professor of anthropology and director of the honors program in the College of Liberal Arts whose home is in Los Angeles, told why the university is a special place for her: "I like being a role model for students who look like me, who act like me. I like following in the footsteps of those who preceded me here."

Donna Tildon, 26, of Los Angeles is in her second year at Howard's College of Medicine. Her father, Dr. Timothy Tildon, is a Howard graduate.

"I grew up in predominantly white schools in Southern California," Tildon said. "I came here to experience the black environment. Most of my patient load as a doctor will be black. My colleagues will be black. Howard University has always ranked with the top medical schools in the nation. That's why I have come here."

One of the finest cancer research centers in America is on the Howard campus. Here too is the nation's foremost sickle cell research facility.

Dr. Russell Miller, 40, is dean of the Howard College of Medicine. His father was a cab driver. Neither of his parents went to college.

"Over 90% of our graduates practice medicine in black communities, communities that are underserved," Miller said. "There are nowhere near enough doctors to serve the needs of the black population.

"Since the founding of Howard University in 1867 the medical school has produced more than 5,000 black physicians."

Howard boasts the only black architectural college in the nation.

"We cannot supply enough of our graduates to the business world," said Milton Wilson, 60, dean of the Howard School of Business Administration. "We're sending out leaders to the corporate offices of America."

The School of Human Ecology focuses on problems of low-income families, of America's poor blacks. "We are doing more than any other school in the nation in this area," said Cecile H. Edwards, dean of the school. "We do research on how low-income families cope, how they survive, and we seek solutions.

"We strive to find ways and means of helping families break out of the poverty cycle. Our graduates become involved in working toward solving environmental health problems, whether it be water quality, rats, mice, roaches or whatever.

"Nearly a fourth of the students in the School of Human Ecology are here from Third World countries, the biggest percent from Africa and the Caribbean Islands.

"We have a strong nutrition program. Malnutrition is a major problem in the world today in the underdeveloped nations. Many children die because of not enough proteins in their diet.

"American students become familiar with the problems of Third World countries working and studying side by side with our foreign students," Edwards said.

"Howard University offers one of the finest nutritional programs of study in the world. That's why I am here," Ayo Essemuede of Nigeria, a graduate nutritionist, said.

"All Africa knows and respects Howard University," said Lishan Abegaz, 29, an Ethiopian enrolled in the nutrition program.

Current enrollment at Howard includes more than 1,800 students from 89 foreign countries, including 538 from Nigeria, 174 from Jamaica, 130 from Trinidad-Tobago, 113 from Guyana, 109 from Iran, 102 from Sierre Leone, 101 from Ethiopia and 83 from Ghana.

"Traditionally Howard has had strong ties with Africa and the Caribbean Islands and Third World nations everywhere," said Cheek, the university president. "The friendships and contacts American students and professors make with foreign students is one of the strengths of the university

"When Andrew Young was U.N ambassador he spoke on campus and told how those friendships he made while a student at Howard served him well in his dealings with African leaders. Ambassador Young traced his friendship with many of the African leaders to his years at Howard when he knew them as fellow students."

When leaders and VIPs from abroad are in Washington, they often visit Howard University.

Professors at Howard's School of Law have played a leading role through the years in working with the courts and Congress on civil rights matters.

Robert Bevill, 22, of Chicago, is a law student planning on entering the diplomatic corps. "I had the impression before coming here I might find most of the students and professors activists wanting to exclude themselves from the total American society, to not take part in the body politic. Not so.

"There are problems. They want to deal with them, but they want to make it a better society for all."

Anthony Bass, 23, also a law student from Chicago, finds that "Howard provides me with an incentive I do not believe as a black I would have been able to get at a predominately white institution. I came here in light of the prominent people who have graduated from Howard, people who have left here and gone on to help mankind and society as a whole."

One of the most popular radio stations in the Washington area is WHUR-FM, the voice of Howard University. It broadcasts around the clock and in addition to music and news features, broadcasts daily interviews with professors and students.

Since its establishment in 1867, Howard has received most of its funding from the federal government. Of the university's current budget of $223 million, $125.5 million has been appropriated by Congress. Other sources of revenue are gifts and grants, tuition, student aid funds and endowments. Tuition and fees currently are $888.50 a semester, low compared to other major universities.

"More than most ranking institutions," President Cheek said, "Howard University operates on the leading edge of social change and social justice in this country.

"Seldom is the university far removed from the forces that shape society's critical questions or shake its complacency and inertia. The issues that remain the most relevant to Howard are those that work to elevate the human spirit or depress the human condition."●

REFLECTIONS AFTER 30 YEARS IN THE AUTO INDUSTRY

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. WALGREN. Mr. Speaker, I want to bring to the attention of my colleagues the thoughts and concerns of my good friend, Mr. Teo Balbo. Mr. Balbo is an auto dealer who is voluntarily terminating his dealership after 30 years of hard work.

Although his letter is brief, Mr. Balbo forcefully expresses his concerns regarding the conditions of the economy and the need for efficient use of our energy resources.

The letter follows:

Congressman DOUG WALGREN,
House of Representatives,
Washington, D.C.

DEAR DOUG: After thirty years in the automobile business, I am quitting. I have had enough of high interest rates, energy problems and inflation.

Don't you think it is about time for Congress to put restraints on the environmentalists and that we go forward with using coal and getting our shale oil (of which we have enough for four hundred years) out of the ground and become independent of foreign oil?

I feel that is a crying shame that in a wonderful country like ours, we Americans with our natural resources cannot use them because of so much government intervention.

There will be many more small businesses closing or going bankrupt before year end. Do you realize the amount of people who are employed by small business? Many of these people will be on the unemployment lines as well as on food stamps and welfare lines. As I see it, it would be better to use

our own natural resources to help us cut our energy cost and keep these people out of the unemployment lines.

I am asking you to give this letter your consideration as well as sharing it with your colleagues and get this country moving forward once again.

Respectfully,

A. J. "TEO" BALBO.●

KIM DAE JUNG CALLS FOR RETURN TO DEMOCRACY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. SOLARZ. Mr. Speaker, I think it is particularly important that the following appeal by Kim Dae Jung for a return to democratic rule in South Korea be heard at this time, following his recent rearrest in the latest round of political turmoil in that country. Mr. Kim's statement was released following the short-lived restoration of his civil rights on March 1 of this year. Whether one agrees or disagrees with all of the points made in this admittedly political document, the basic point of his statement is noncontroversial: The security of South Korea will ultimately by enhanced by the return to a democratic form of government.

The statement follows:

STATEMENT TO MY FELLOW CITIZENS FOLLOWING 7 YEARS' ISOLATION

My dear fellow citizens. The Presidential election of 1971 was a historical incident causing a painful and unfortunate experience to both you and me. At that time you enthusiastically supported me for the democratization of our country. However, the adverse political situation of that time prevented the peaceful transition of power. Perhaps it was due to lack of virtue on my part. I feel deep responsibility for the dictatorship under which you have had to suffer; facing you now, I must seek your forgiveness for not doing my part more faithfully. I feel especially painful heartache when I think of the sufferings of the poor people, laborers and farmers who live under skyrocketing inflation and economic frustration.

I would like to share some of my thoughts on these matters, in the hope that this will help solve those problems and alleviate your sufferings.

1. TRANSITIONAL GOVERNMENT AND THE PRESENT POLITICAL REALITY

It is very clear to me that there have emerged two clear points of national consensus. One is for the establishment of democratic government, which the people have earnestly desired for so long. The other is that the Choi government is not a transformed Yushin System succeeding to the heritage of the former regime, but is, in name and reality, a transitional government only to undergird the process of birth of the new democratic government of which the people are the masters.

On December 8th last year, I urged that the present transitional government should form a nation-wide consultative body, representing all segments of the society, to function as a neutral national cabinet. I believe that the political process would have developed in stability and hope, if my advice had been accepted.

Our citizens have shown a keen interest in the revision of the constitution, which is the foundation for the new democratic government. The present interim government is going beyond its proper function as caretaker, and is intervening essentially in the process of constitutional revision. The interim government misreads the genuine interest of the people in the constitutional revision as "political overheating". If we describe the political climate according to relative temperature, we may say that the weather in the 70s was continuously around −10 C and the present political temperature is −5 C. If one accepts this temperature as standard, then the normal and genuine aspirations of the people for true democracy may be mistakenly regarded by the present government as overheating the political atmosphere. There are serious problems with this view of political development.

The government worries about political chaos; but when one understands that the Yushin regime's "over-kill" measures and over-reaction to small political incidents became the source of political instability, I am convinced that the citizens' earnest desire for democratization cannot be the source of any political chaos.

The present government delayed unduly the restoration of rights for released political prisoners, and the scope of the restoration is below the expectation of the citizens. The Martial Law continues without legitimate reason and the press is still censored. There have been delays in releasing democratic leaders from prison—all these things make our people unnecessarily anxious. Moreover, as various opinion surveys show, the people want to shorten the interim government's rule and constitutional revision, and yet the government prolongs its interim period against the public expectations.

I want to make this point very clearly. If the present government proceeds hurriedly and unconvincingly with any affairs against the will of the whole people, or delays unduly what the people want to have done, these will be the causes of political instability. The present government must be aware of this fact.

Together with the support of all citizens, I would like to clarify our common political goals, as follows:

First: Strengthening of our anti-Communist national security posture.

Second: Realization of liberal democracy.

Third: Developing of a free economic system.

Fourth: Realization of social justice.

Fifth: Strengthening close and good relations with friendly nations, such as the U.S. and Japan.

Sixth: Unification of our fatherland through peaceful dialogue between South and North.

The above is, we believe, the consensus of our people. This unity of the will of our people is the basis for the best strength of our nation.

There can be no reason why there should be any division of opinion among the people, or political chaos, if only the present interim government faithfully carries out its function for the birth of tomorrow's democratic government, which will fulfill the political goals named above.

I am prepared to meet President Choi Kyu-hah at any time, in my earnest hope for the prevention of unnecessary political confusion and the smooth realization of democratic government according to the desires of our people. We should discuss, sincerely and frankly, the neutral role of the interim government, establishment of a democratic system on the basis of the national consensus, national security, stabilization of the people's livelihood, and all other issues.

At this time, together with my fellow citizens, I profoundly regret that those who played the key roles in the Yushin System do not show any sign of humble self-criticism and self-restraint before the people and before history. They rather seek to rationalize the past, and try to sustain their previous interests by all their means. Moreover, they threaten that if they do not continue to hold power, there will rise "a certain grave situation." This kind of attitude shows that they have not learned any lesson through the past historical events. Those who do not learn from their historical experiences cannot but repeat the tragic history again. This is a historical truth. In this sense their attitude casts a dark shadow over the future of our nation and people.

2. THE POSITION OF THE REPUBLIC OF KOREA IN THE WORLD

The repeated cycle of cold war and detente has been the pattern of encounter between the United States and Soviet Union during the history of the world since World War II. With the recent Afghanistan incident the ominous atmosphere of the cold war is once again making the world uncertain. In the vortex of this kind of confrontation between the two superpowers, the Korean peninsula has always been used; and in the future there remains the possibility that Korea will again be so used.

The changing situation of Asia is becoming markedly delicate in recent days. The Sino-Soviet confrontation is not limited to the northern frontiers of China, but is being expanded into Southeast Asia, centering around Vietnam. The major force of Soviet Russia is reaching to threaten the United States' dominant position in the Eastern Sea (Sea of Japan) and the western Pacific. In this situation, with these kinds of changes, the United States and Communist China are becoming "semi-aligned" nations, and Japan is supportive of this trend. Accordingly, there is even the possibility of the North Korean regime—which is showing a tendency to become pro-Communist China—and the U.S. government's establishing a relationship of "friend-to-friend". This is indeed a delicate situation.

This is a serious challenge to us and at the same time it could become an important opportunity for us too. In this situation, to successfully establish democratic government on the basis of the firm and voluntary support of the people, internally, and to obtain the trust and respect of the peoples of friendly nations such as the United States, externally—if these things can be achieved, we can decisively grasp this advantageous opportunity for the peaceful solution to the relationship between South and North Korea.

However, if we fail in the slightest in reestablishing democratic government, and thus experience confusion, giving reason once again for the setting up of a dictatorial political process in our land, then the destiny of our nation will be thrown into most tragic danger. Therefore, we all must regard this situation as of utmost importance, and must guard against such an eventuality.

3. NATIONAL SECURITY AND GUARD AGAINST THE COMMUNIST FORCE

The North Korean Communist force, as a competitive existence, is the object of our constant vigilance and rejection, not only for the protection of our freedom and human rights, but also for the survival of our nation. So long as the Communist regime does not clearly abandon its so-called

strategy of liberation, and respect peaceful co-existence, we cannot neglect our national security even for a moment. We must prevent any possibility of invasion from the North, through our national strength and defense posture based upon the voluntary consensus of our people.

On the basis of our true national strength, we must push a three-stage policy for national unification, that is, peaceful co-existence, peaceful exchange, and peaceful unification. We must push this very strongly. This policy has been my constant view since the past 1971 Presidential election.

What I would like to once again emphasize at this point is that true strong national security is only possible under a democratic government which is based upon people's voluntary and earnest participation. I am convinced that there is no stronger national security than the maintenance of a democratic system on the basis of the self-awareness that the people are the masters of the nation. Therefore, national security should not be ill-used for any particular political force or political regime. If it is misused, that political force and that regime and all the people will be thrown into a tragic predicament. Because of this, national security against Communism, and the question of national unification require the participation of all the people and a consensus transcending all political divisions. On the basis of this consensus, systematic institutionalization of both the national security system and the process of national unification can be realized.

In the past I have been grateful for the dedicated effort on the part of our military for national security. I seek to support such efforts continually, together with the people. At the same time I would like to express my profound gratitude to the United States for their friendly cooperation for our national security since the October 26 incident.

4. ON POLITICAL REVENGE

The spirit which is most urgently needed today, from the point of view of the present political situation, is on the one hand the spirit of reconciliation and unity, and on the other the spirit of self-reflection and self-renewal. Those who have suffered unjustly in the past should forgive and embrace those who have caused the suffering, and those oppressors must also repent of their wrongs.

We must put a firm period to any kind of political retaliation against those who have made us—democratic leaders and myself—suffer. From now on there must not be any such vicious cycle of political revenge; a new political culture must be created in which such a thing can never be revived. My only political enemy has already departed this earth. Those who have been moved by him cannot become the objects of political retaliation any more. I believe that the present military and public servants, in both upper and lower echelons, can and must serve the people and the nation with peaceful mind. They must only keep political neutrality in a strict sense, to follow the will of the people, and voluntarily dedicate themselves to the nation.

5. PROSPECTS FOR THE EIGHTIES

There is as yet no clear view of the future prospects of the current political situation. Within this year we must cross high mountains and ford wide rivers to overcome the many trials before us. Ten years ago I foresaw the coming of the Chong Tong Jae (generalissimo system) of the 1970s. However, in contrast to the sinister 1970s, from a long-range perspective, I believe the 1980s will bring the hopeful new age, so long as we are faithfully trying hard. Even in this land, a utopia of Canaan can unfold before our eyes—a land of milk and honey.

The reason why I am optimistic about the future is that our people are in many respects a mature people. At the time of the October 26 incident, our people continuously showed an astonishing strength, inside and outside of our nation, not only in terms of protection of rights, but also in terms of the consciousness of responsibility. Our people have shown a mature strength beyond that of peoples of advanced nations. This very strength of our people, the vigorous undercurrent of the present situation, is watching over all the political process from behind the scenes.

A people cannot have a constitution beyond their capacity. Such a proverb shows that if there is no awareness and dedication by the people for democracy, then even if the best constitution is provided, it does not have any practical meaning. Now our people today have developed the qualifications to preserve and enjoy such a democracy, in a paradoxical way, through seven years of tragic experiences under the Yushin System. In this sense, I am convinced that our people have already reached the level of consciousness of people in politically advanced nations. Such a democratic government in which such a proud people become the true masters of their own destiny will strengthen like iron the anti-Communist national security posture, and enable the dialogue between South and North to be firmly carried out. I want to talk together with this mature people—my fellow citizens, and with their cooperation, proceed to form a democratic society and achieve the great task of national unification.

6. MY ROLE AND ACTION FROM NOW ON

We recognize that there are some forces remaining which seek to prevent democratic development; we must realize the need to gather our strength and unite together to prevent their attempt. I hope that the New Democratic Party will take the role of leadership to realize this goal.

My political future will be decided in consultation with the people in the opposition, and above all, following the will of our people. At this moment my first concern is to smoothly establish the democratic system, before any consideration of becoming a candidate for President. Because of the competition for the Presidential candidacy, I am worried that we will give an unexpected advantage to those who do not want to see the revival of democracy. As one man on guard for democracy, together with the people, I will sincerely watch over and try to prevent such an unfortunate situation.

Finally, at this 61st anniversary of our March First Independence Declaration, I and all Korean people humbly pay our respects to our forefathers, in the hope that democracy, independence and peace can be developed in accordance with their noble spirit, and that this can be realized in our generation.

KIM DAE JUNG.●

IOSIF MENDELEVICH RECOGNIZED AGAIN

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. FROST. Mr. Speaker, the story of Iosif Mendelevich, a Soviet prisoner of conscience, is worthy of this body's consideration once again.

His particular plight was first called to my attention when I participated in Intervention 96, a program sponsored by the National Council on Soviet Jewry. Labeled "The Old Adopting the New", seven freshmen Members of Congress spoke on the House floor on behalf of Russian dissidents who were at that time incarcerated in Soviet prisons.

Mendelevich had been imprisoned after the notorious Leningrad trials, for allegedly attempting to hijack a plane to Israel. Although all but two others arrested at the same time and for the same offense have since been released, this man remains incarcerated. He is a devout Jew who consistently refuses to breach the doctrines of his faith. To avoid operating machines on the Sabbath, he works extra hours each day to meet his quota. On Passover, 1974, Mendelevich fasted for 8 days rather than eat foods containing leavened ingredients which are forbidden during the holidays. And he cannot eat many of the foods in his already meager camp diet because they are not kosher. Although the camp doctor gave his permission for Mendelevich's cereal to be served to him without pig oil, the prison director subsequently reversed the decision, citing his reluctance to afford any one prisoner special treatment over another.

Mr. Speaker, I do not have to tell you what effect the combination of hard labor, poor nourishment, and extreme mental strain can have on a man's well-being. In poor health to begin with, I have received documented proof of the deterioration in his health. Yet the latest information I have received indicates that the prison doctors continue to prescribe aspirin for a condition that was diagnosed as a rheumatic heart condition when Mendelevich was a youth.

And he suffers from other strains. His stepmother and sisters were permitted to emigrate to Israel and his father, his only living relative in the Soviet Union, died last year. He does maintain contact with another Soviet family, but they report that he has not been permitted to receive a visitor in 6 years and that he has not been permitted a letter from his stepmother in some time.

My appeals on behalf of this man have gone to all levels of the Soviet bureaucracy. Initially, I wrote directly to Soviet Secretary Brezhnev and Interior Minister Schelokov and appealed to them for special consideration of Mendelevich's case. When I was informed that Mendelevich had not received my first letter to him, I again wrote Soviet Secretary Brezhnev and to the Minister of the Interior, and demanded that he receive the correspondence he is legally entitled to under Soviet law. I have written the Minister of Health, asking that Men-

delevich's unique health problems be given the attention they need. And, I even wrote then-Secretary of Health, Education, and Welfare Harris and asked that she petition her counterpart in the Soviet Union on behalf of Mendelevich. Finally, I traveled to the Soviet Embassy here in Washington and spoke with the political counselor there about this man.

There have been no miracles as a result of my efforts. True, Mendelevich has received my letters to him and we have learned that my appeals have been heard in Moscow.

But beyond this, no other tangible achievements have resulted. There are those that would point to this record and give up in exasperation. I intend to continue speaking out and working behind the scenes, on behalf of Mendelevich and on behalf of the countless other Soviet citizens who share his desperate situation. As a Member of the House of Representatives, I believe I have been afforded a unique opportunity to affect the course of human rights development in the Soviet Union, and I plan to take advantage of that opportunity. I plan to continue advising Soviet leaders that I consider their human rights records to be inadequate and that I consider them long past due in recognizing the fundamental rights that every human being is entitled to. And, Mr. Speaker, I plan to continue doing so, regardless of the political situation prevailing between our two Governments, until the Soviet record shows that my intervention is no longer warranted.●

CONGRESSIONAL SALUTE TO HON. CASEY KORDYS, OF NEW JERSEY, 1980 "PAUL HARRIS FELLOW," ROTARY CLUB OF WAYNE

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. ROE. Mr. Speaker, on Wednesday, May 21, the residents of my hometown of Wayne, Eighth Congressional District and State of New Jersey will join together with our fellow Rotarians in testimony to my good friend, outstanding community leader, prominent architect, and distinguished citizen, Hon. Casey Kordys, of Wayne, N.J., whose standards of excellence throughout his lifetime have earned him the most highly coveted honor of being chosen the 1980 Paul Harris Fellow of the Rotary Club of Wayne—the highest award that Rotary can bestow upon any of its members. I know you and our colleagues here in the Congress will want to join with me in extending our heartiest congratulations to Casey Kordys and share the great pride of his good wife Jean and son Robert in applauding this milestone of achievement in his most illustrious and rewarding lifetime of fulfillment and purpose.

The Rotary Club of Wayne is one of our Nation's most prestigious affiliates of Rotary International whose motto: "We make a living by what we get—we make a life by what we give"—"service above self"—and their good deeds in helping others, young and adults alike have served to inspire all of us. Casey Kordys has by his example and lifetime of dedication to these same true American ideals personified exemplary leadership in his outstanding responsible service to our people.

Mr. Speaker, Casey Kordys in his career pursuits has truly achieved a highly respected reputation as an architect of great eminence whose good works will ever stand as a lasting memorial to his splendid professional expertise. Of even greater significance is the heart-warming knowledge of the magnitude of the unselfish dedication, free spirit, silent courage, and noble efforts that he has extended to overcome not only his own physical handicaps during his hospitalization for 11 years during his young manhood but his dedication and devotion to providing a better standard of living for the handicapped citizens of our Nation. The president of the Wayne Rotary Club, Hon. Ralph Van Der May, expressed the Wayne Rotary Club's esteem of Casey Kordys, as follows:

Casey was born into a family that had a struggle to support seven children during the depression years.

He was hospitalized, as the result of an injury that occurred while playing baseball, from 1934 age 19 until 1945 age 30.

During his long ordeal in the hospital it was the famous Dr. Kessler who took a personal interest in this young man and saved his leg and directed his care to final recovery and rehabilitation.

Casey must have been a wonderful person even before he endured this long and dreadful ordeal, however, there is no doubt that his experience further matured his deep compassion for others particularly the less fortunate and handicapped.

I know of no one in Rotary or associated with the Foundation for the Handicapped who responded more quickly or worked harder to support worthwhile projects, than Casey. He truly lives by the Creed.

"We make a living by what we get—we make a life by what we give."

When it comes to giving of himself to support charitable projects, his first love has been the Foundation for the Handicapped. He was a charter member, a Vice President and a Trustee since it was established in 1968.

His architectural expertise and dedication transformed an abandoned sewage plant of 800 square feet into a modern, spacious, efficient, workshop of over 5,200 square feet for the Wayne Foundation for the Handicapped.

During the construction of two major additions to the Wayne Foundation for the Handicapped Center in the periods 1971-72 and 1978-79, Casey donated a great deal of his time in preparing the drawings, obtaining approval for permits from both the Township of Wayne and the State of New Jersey, and overseeing the construction of a grand and wonderful new facility.

He is proud of it and we are proud of him.

Mr. Speaker, all of us who have had the good fortune to know Casey are especially proud of his many accomplishments which have truly enriched our community, State, and Nation. His personal commitment to the economic, social, and cultural enhancement of our community has been a way of life for him. His outstanding public service in sharing the burdens and seeking a better life for our handicapped as well as improved physical and mental health through social and vocational rehabilitation programs for the handicapped are applauded by all of our people.

It is my great pleasure to call your attention to this distinguished gentleman and seek this national recognition of all of his good deeds. I know you will want to join with the Rotary Club of Wayne, N.J., in honoring our good friend Casey as an outstanding citizen and great American. We do indeed salute the Wayne Rotary Club's "Paul Harris Fellow"—Hon. Casey Kordys.●

REGULATIONS SUFFOCATING HEALTH CARE

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. DANIEL B. CRANE. Mr. Speaker, more and more Americans are realizing that Government regulations are simply strangling our economy. Yet small businessmen are the forgotten men of Government policy.

Recently the AADvocate, the newspaper of the Association of American Dentists, published an excellent commentary on Federal regulation in the health fields. I commend this article, written by Melvin Munn, to the attention of my colleagues.

The article follows:

THE BATTLE: FEDERAL REGULATIONS VERSUS THE REGULATED

The U.S. Constitution obviously leaves room for our governments to enact laws that protect our people—especially including working places. The problem reaches the grave state when "cures" are created by politicians for political purposes, rather than by professionals, moved principally by humane desires.

Miserable is the only adequate word to describe the ragged result we see in a flood of regulatory agencies and rules in federal legislation.

The people are too often stymied; creativity is too often frozen; and protection is too often stultifying when politicians start fretting over our individual and group "welfare."

Zero defects in products plus zero pollution plus zero risk on the job equals maximum growth of government plus zero economic growth plus runaway inflation.

Barry Crickmer's article "Regulation: How Much is Enough?" in the March, 1980 issue of Nation's Business, addresses excess regulations. Crickmer wrote: "Many of the newer regulatory programs were ill-conceived and ill-considered. Typically, each got

started when a single-interest pressure group succeeded in creating a wave of hysteria over an alleged crisis."

Ralph Nader epitomizes the irrational leadership one-issue groups tend to follow. Nader keeps coming up with "single-interest" causes, often balancing a dozen separate "movements" on his pointed head at one time. Nuclear-produced energy is tied in knots by hordes of these single-interest groups. Court suits; strikes; overly-dramatic headlines and lead stories in the media; demonstrations; protest marches and federal regulatory bodies add billions of dollars to the cost of building nuclear plants, at the same time delaying for years a giant step toward greater independence from foreign energy supplies.

The American drug industry is hidebound by FDA regulations. American leadership in chemical drug discovery and production are gravely retarded by overly-protective federal regulations. British, French and other western nations save lives with new medications while our bureaucratic bumblers refuse to approve those same elements for our patients.

AAD often documents the tragic presence of politically motivated laws and regulations in the fields of health care, especially including dentistry. The health care professions join industry, agriculture, education and all major disciplines in a sea of paper work, federally inspired/required.

Federal, State, County, City and District regulations combine to increase the "work load" of every doctor, hospital and clinic in the land. Third party insurers add even more paper work. Just about all doctors' offices have to employ one or more extra clerks to do these new legal demands on the practice.

The Occupational Safety and Health Administration (OSHA) held the Number One post in the "Illogical Sweepstakes" among regulators, until the Department of Energy and the Department of Transportation were created. OSHA is being slightly brought to heel, but only at a-time when new regulators are behaving even more irresponsibly than OSHA ever did.

Despite all the rich promises of President Carter, with the possible exception of the deregulation of commercial air travel, there has been nothing but a rapid increase in federal control over everything and everybody in the U.S. There can be no recovery from that inevitable recession rushing headlong toward all of us until and unless the federal government loosens or removes federal regulations quickly and generously.●

LEGISLATION PREVENTING THE RETROACTIVE APPLICATION OF CERTAIN INVENTORY ACCOUNTING CHANGES CONTAINED IN THOR POWER TOOL

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. CONABLE. Mr. Speaker, today I have introduced legislation to prevent the Internal Revenue Service from compelling taxpayers to implement certain inventory accounting changes retroactive to 1979. In late 1979 the Supreme Court upheld the IRS position on the proper method of accounting for excess inventory for tax purposes. The case was *Thor Power Tool Co.* v. *Commissioner,* 439 U.S. 522 (1979).

In early 1980 the IRS issued revenue ruling 80-60 and revenue procedure 80-5 which officially extend the Supreme Court's holding in Thor Power Tool to all taxpayers. The effect of these two IRS documents is to impose the new inventory accounting methods on taxpayers retroactive to most of 1979.

While the IRS may have the power to require such retroactive accounting changes, it is insensitive and out of touch with our traditional standards of fair play. The retroactive accounting changes may result in a significant tax liability for some taxpayers because of the one-time adjustment which they must make for past excessive inventory writeoffs.

The legislation which I am introducing, along with Mr. FRENZEL and Mr. EDWARDS of Alabama, simply would prevent the retroactive application of the Thor Power Tool case to most taxpayers. I have made no judgment concerning the underlying merits of the Supreme Court's decision on tax accounting for excess inventory. The legislation would permit the prospective application of Thor Power Tool, that is, starting January 1, 1980. The legislation is intended to provide relief to taxpayers who were unaware of this inventory accounting dispute until the IRS rulings early this year. Thus, it would not prevent the retroactive application of the Thor Power Tool accounting changes either to the litigants in Thor Power Tool or to other taxpayers who were involved in IRS audits on this issue.

I believe this legislation provides for a fair and sensible approach to implementing new accounting rules. It preserves the integrity of the tax law and judicial process without imposing undue hardship and disruption on the business activity of numerous taxpayers.●

HOW EFFECTIVE IS THE OLYMPIC BOYCOTT?

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. DUNCAN of Tennessee. Mr. Speaker, I am sure that every Member of this House has heard from many of their constituents with respect to President Carter's decision to boycott the 1980 summer Olympic games to be held in Moscow. I have received letters from constituents both for and against, and one gentleman in particular has asked that I make his comments known to my colleagues. Mr. John Mark Hancock is a law student at the University of Tennessee, president of the graduate student council, and a fine citizen. His remarks appeared in the campus newspaper, the Daily Beacon on May 13, 1980:

OLYMPIC BOYCOTT IS FALLING ON DEAF EARS

(By John Mark Hancock)

President Jimmy Carter's call for the United States teams to boycott the 1980 Summer Olympic Games in the Soviet Union has struck a raw nerve among Americans everywhere. It is increasingly falling on deaf ears as athletes and their admirers alike come to the realization that the President's move is just another in a long series of political ploys designed to redeem the Administration from past ineptitudes in the areas of foreign policy.

A U.S. boycott of the Games in Moscow would be a severe blow and a great tragedy for the thousands of young American athletes who have made extreme sacrifices financially and in their future educational plans, spending years of time developing and conditioning themselves to prove America's superiority in the world of sports. These Games will be the culmination of the lifelong dream of every athlete to represent their country and its principles in the world's greatest athletic event. Since they are held only once every four years, they represent the only chance many fine participants will have of being in top form in their careers.

Such a boycott would mean not only a great personal sacrifice for the athletes but also a terrible loss to the country as a whole, in depriving our nation of the global recognition and acclaim this team would bring us in advancing the cause of freedom to all oppressed peoples. Can anyone deny that a great message for democracy was given to the world when the U.S. hockey team defeated the Russians in Lake Placid this year? Why should our summer participant in the Olympics be denied their right to similarly express their patriotism and show the Soviets and the world the greatness of America? In fact, the site of the Games gives us a great opportunity to show the Russian people the fruits of an uninhibited society where individualism is encouraged rather than suppressed.

The United States Olympic Committee is to be commended for its total commitment to having a truly great American team go to Moscow. Its efforts in fund-raising over the past few years would make this the best-financed effort in history, something that millions of people have contributed toward in time and money.

Sports should never be subjected to politics. Any move by the U.S. government to enforce a boycott of the Olympics would be an affront to the athletes and all Americans. A "stay-away" would fuel even greater Communist propaganda in trying to portray our government's action as something akin to oppression. A much stronger statement for democracy could be made by following the athletes' suggestion, as articulated by the Athletes Advisory Council to the USOC, of attending the Games but refusing to participate in the opening and closing ceremonies as a protest for the Soviet invasion of Afghanistan.

It is becoming clear that an American boycott will not be supported by any significant number of even the free countries of the world, and it certainly will have no effect on when the Soviets will withdraw their troops. Therefore, there is no national interest to be served by remaining at home and there are a number of interests which are disserved by doing so. It is heartening to see that other alternatives to a boycott are being explored by people such as the Amateur Athletic Union, to stand up for what is

basically right, regardless of the government's position.

The posture of the White House has been very inconsistent. On the one hand, it has said that this is basically a decision to be made by the private sector. On the other, it has told the athletes that the decision has already been made. Will the President go so far as to prevent anyone from going to Moscow to see the Olympics?

Most of the athletes have indicated a willingness to cooperate if it would in any way further the cause of world peace. However, since it is clear that this would not occur, they should not be victimized by a meaningless exercise.

It's time for all of us to rekindle the spirit of the Winter Games, revive our slogan of "Win in 1980," get behind the greatest assemblage of athletes the world has ever seen, and send them to Moscow in a patriotic flourish. Let's strike a blow for democracy and bring all of those Olympic medals to America. Let's "Go for the Gold!"●

THE CHARMS OF MICRONESIA

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. WON PAT. Mr. Speaker, for years, I have urged every one of my colleagues to make a trip to Micronesia. In the case of Congress, there is a lot to be learned about this vast area consisting of over 2,000 miles spread over 3 million square miles of the Pacific. In the bargain, visitors will be regaled with some of the most magnificent sites nature has bestowed on this planet.

Part of my pride in Micronesia, is, of course, the fact that my home of Guam is part of this scenic wonderland. I can think of no place more wonderful than Guam and I am always pleased to be on my way back home after a few months in Washington.

Because of our geographical remoteness, Micronesia does not get the attention here in the States that is given Hawaii. This is a shame, because Micronesia offers tourists what may be one of the best financial deals around and perhaps one of the last opportunities to truly "get away from it all."

I am always pleased to see Micronesia written about in the press and today I call your attention to a recent story in the Washington Star, written by Robert Trumball, about Micronesia. Mr. Trumball has done an excellent job of giving his readers a bird's eye view of various islands in the area. I only regret that he did not include more material about Guam's many charms.

I call this article to the attention of my colleagues, who, what with our busy schedule and the hectic pace of campaigning, may be wishing for some truly beautiful spot where they can get away from the demands and rigors of public life. Micronesia is exactly that spot and I always stand ready to give my colleagues a guided tour through Guam as a starter of a trip they will never regret or forget.

At this time I ask that the article be placed in the RECORD.

MICRONESIA'S TINY ISLANDS SPREAD OVER THE SOUTH PACIFIC

Micronesia—the name comes from the Greek for "tiny islands"—consists of three great archipelagos, the Marshalls, the Carolines and the Marianas.

Lying in a broad belt 2,500 miles long and several hundred miles wide just north of the Equator, the 2,000 islands and atolls are spread over a Pacific Ocean area of about 3 million square miles, approximately the size of continental United States. But the actual land mass is about half the size of Rhode Island.

The United States administers Micronesia under a postwar arrangement with the United Nations. The ruins of Spanish walls, German churches and Japanese Buddhist and Shinto shrines recall previous occupations by Spain, Germany and Japan. U.S. forces ousted the Japanese from some of the islands in World War II, and took over the rest at the end of the war.

In negotiations with elected Micronesian leaders over the last several years, the islands have been divided politically into four entities, each more or less self-governing. Saipan, Tinian and a dozen other islands north of Guam became a Commonwealth of the United States, similar to Puerto Rico.

The Marshall Islands, the Palau group in the western Carolines chain and a new unit called the Federal States of Micronesia, consisting of Ponape, Kosrae, Truk, Yap and satellite islands, set up autonomous governments, with the United States keeping control of military and security affairs.

The political changes take formal effect only when the United Nations trusteeship terminates, an event programmed for next year by the Carter Administration. Today's traveler in Micronesia already has the feeling of passing through four countries, since each group has its own language and culture, along with separate customs and entry procedures.

Air Micronesia ("Air Mike"), an affiliate of Continental Airlines, has a monopoly on direct service to Micronesia from the United States, operating Boeing 727 jets Mondays and Thursdays from Honolulu direct to Majuro, in the Marshall Islands, and on to Kwajalein, Ponape, Truk, Guam, Tinian and Saipan. At Guam, a connecting Air Micronesia flight goes south to Yap and Palau.

Or one can fly nonstop from Honolulu to Guam by Pan American, and come back by Air Mike in island-hopping stages. The round-trip air fare from Honolulu to Truk, Saipan, Palau and Guam is $674. Continental also has a 16-day package tour to Micronesia from Los Angeles with a fare of $1,470 per person, double occupancy.

American citizens planning to be in Micronesian territory no longer than 30 days need only produce a passport or some other proof of United States citizenship. Non-citizens and those wishing to stay more than 30 days can obtain an entry permit by writing to Trust Territory Chief of Immigration, Saipan C.M. 96950.

With temperatures ranging from a minimum of 75 degrees at night to the high 80s in the daytime, and with humidity high, dress is light and casual at all times. Coats and ties are seldom seen. Washable slacks or shorts with Hawaiian-style shirts and sandals are standard. Since it may rain a lot, a raincoat or folding umbrella can be useful.

Bring suntan lotion, film, cosmetics, toiletries and pharmaceuticals should be taken along. Diving gear can be rented in Palau, Truk, Ponape, Saipan and Guam. If you forget anything when leaving home, you can probably get what you want during the unavoidable passage through Guam, the Micronesian travel hub and commercial entrepot.

Currency used is the U.S. dollar. American banks have branches on the main islands. Major credit cards are accepted by the principal hotels and some shops. Costs are moderate to cheap by Stateside standards. Tipping is not customary except on Guam.

Modern technology has yet to penetrate deeply on many of the more remote islands, and even in the government centers, where Americans have been for 35 years, facilities are still on the primitive side. Electric power service tends to be undependable because of old equipment, and some island administrations occasionally have to restrict the use of water to certain hours.

Taxis are available on all the main islands and are very cheap, with fixed fares from point to point, but it is wise to inquire at the hotel what the fare for a given distance should be, and come to an agreement with the driver before setting out. Rental cars are available at $15 a day.

Hotel dining rooms are probably the best restaurants on any of the islands. Local delicacies to sample are coconut crabs, mangrove crabs on Ponape, baked or boiled breadfruit and edible island fruits of any kind. The fresh tuna shashimi, a heritage of the Japanese occupation, is especially good. As for after-dark entertainment, a few bars and discos are good places for meeting Micronesians, and that is about it for night life.

THE MARSHALLS

First stop in flying westward, not counting a pause for refueling at tiny, isolated Johnston Island, is Majuro, capital of the New Republic of the Marshall Islands. It is worth staying in Majuro for the three days between planes just to experience life on a typical atoll, a ring of narrow, flat coral islands around a logoon.

The U.S. Navy Construction Battalion, the famed Seabees, who landed on Majuro in 1944, gave Majuro a 30-mile highway, the longest in Micronesia. Near the eastern end is the main settlement, with a few modern buildings, stores, movie theater, bars, banks and piers and the only stretch of sidewalk on any of the Micronesian atolls. Rusting, dilapidated wartime structures still stand where the administration was a generation ago.

Also worthwhile is the half-hour drive to Laura for a swim in the warm surf along a lovely white beach by a grove of palms. Fishing trips can be arranged through a local tour agency. Also outstanding is the daylong boat trip to nearby Arno atoll, where the neat little thatched villages look as if they were lifted out of the 18th century. Air Marshalls, a local plane service, offers flights from Majuro to other atolls; there are 34 in the entire group.

The handicraft shop near the Protestant church in Maduro is the best place to buy Marshallese woven ware, which is said to be the finest in the Pacific. One item that is particularly popular with visitors is the Kili bag, a special type of square handbag fashioned of tightly woven split pandanus by the residents of Kili Island, who were moved there from Bikini when that atoll was chosen for nuclear experiments. A Kili bag priced at $25 will bring two to three times that figure in the few Honolulu shops that stock them.

PONAPE

Rainfall and lush vegetation go together, and Ponape has plenty of both. The capital

of the new Federated States of Micronesia is being constructed in simple tropical architecture near Kolonia, the main town. With nondescript frame buildings and bars lining the rutted main street of reddish mud. Kolonia looks like a set for a cheaply made Western movie. Away from the town, Ponape is sheer beauty, with mountains blanketed by rain forests, and marine vistas embellished with satellite islands.

Besides poking around Kolonia, one can take boat trips to the outer islands and arrange for an excursion to the Nanpil Waterfall, which lies along a jungle trail by a leaping river.

An attraction that should not be missed is the centuries-old deserted stone city of Nan Madol, often called the Venice of the Pacific because it is built on scores of artificial islands along manmade channels lined with mangroves. The boat trip from Kolonia takes 40 minutes and can be arranged through hotels for only a few dollars a person.

Side trips to other islands seldom visited by tourists are available from Ponape by the Ponape Air Service, a charter line with headquarters in the Cliff Rainbow Hotel, P.O. Box 96, Kolonia, Ponape 96941, and by the six-cabin motor vessel Micro Glory, run by Ponape Transfer and Storage, P.O. Box 340, Kolonia, Ponape 96941.

Among other nearby destinations, the ship goes to Kosrae, formerly called Kusaie, a gem of an island. The round-trip fare is $42.70 with cabin accommodation. Schedules are irregular, so passengers should write well ahead. Pacific Mission Aviation, a service run by a German cleric who was once a Luftwaffe pilot, schedules flights from Ponape to Kosrae Monday, Wednesday and Friday at $130 round trip. For reservations write P.O. Box 86, Colonia, Yap 96943.

Cottage accommodations with a jungle setting and a sea view are available at the Hotel Pohnpei (P.O. Box 430, Kolonia, Ponape 96941). The rates are $12 single and $18 double. Another hotel, the Village (P.O. Box 339, Kolonia, Ponape 96941), lies about half a mile by car from the airport and accommodates guests in individual thatched huts of Ponapean design. The dining room and bar are in a building overlooking an island-fringed lagoon. Rates: $30 single, $35 double, extra persons $5 each.

TRUK

Formerly a Japanese naval and air base, Truk is made up of a group of volcanic "high" islands surrounded by a ring of coral islands enclosing a gigantic lagoon whose blue and green waters teem with flying fish. From the island of Moen, where the hotels and government offices are, visitors can make excursions to the smaller islands where life has proceeded with little change for centuries. Scuba divers come to Truk from all over the world to explore the barnacle-encrusted hulks of more than 60 Japanese warships sunk in the lagoon by American carrier aircraft in 1944.

The best of half a dozen hotels is the Truk Continental, owned by Continental Airlines ($38 single, $50 double). The hotel is on a beach, 20 minutes from the airport (the ride costs $2 by hotel transport). Alcoholic beverages are proscribed by local law because of the devastating effect of overindulgence on the Trukese temperament, but travelers have been known to bring in bottles at their own risk.

GUAM

If stopping over, there is a choice of first-class hotels along the island's most popular beach on Tumon Bay. Rates at the best range from $23-$25 single to $28-$40 double with kitchen at the Fujita Guam Tumon Beach Hotel (P.O. Box FM, Agana, Guam 96910) to $37-$47 single and $45-$55 double at the Hilton Internation Guam (G.P.O. Agana, Guam 96910).

A drive around the island could include stops at the black sand beach at Talofofo, excellent for body surfing, and to the village of Umatac, where Magellan landed in 1521. Several agencies offer full-day bus tours of Guam for $24 or a half-day tour of Agana, the capital, and environs for $8.

Agana, a duty-free port, is packed with shops offering a wide range of imported perfumes and other goods, especially Japanese photographic, electronic and optical wares at bargain prices. American citizens returning home through Guam can take advantage of the special Customs exemption allowing duty-free import of $300 in merchandise from Guam per person.

NORTHERN MARIANAS

Saipan and the companion island of Tinian were the scene of fierce World War II battles. The main reason for visiting Tinian, which can be done by air taxi from Saipan for $10 each way, is to view the markers on the abandoned runway showing where the planes took off to drop the atomic bombs on Hiroshima and Nagasaki in August 1945.

Physical reminders of the war abound on Saipan, a pretty island with lovely white beaches and comparatively good roads built by the American Navy. The village of Susupe, just down the main road from the hotel area, is the capital of the Commonwealth of the Northern Marianas, destined to become a full member of the American community. The new status, long sought by elected political leaders of the 15,000 Northern Marianas people, was overwhelmingly endorsed in a plebiscite.

A 15-minute drive from the hotels, a cluster of battered and rusting tanks and artillery pieces stand outside a cave where the defeated Japanese maintained their last command post. Two cliffs where hundreds of Japanese soldiers and civilians leaped to their death to avoid capture by the advancing Americans are often visited by mourning relatives who have made the trip from Japan to leave religious offerings at the site. Several tour companies offer bus trips around the island.

Five major hotels along the beach have facilities for tours and water sports. The Saipan Continental and Saipan Inter-Continental are side by side. Rates at the former range upward from $67 double and $59 single. At the Inter-Continental, the rates are $45 double and $40 single. The small Royal Taga, also on the beach, is simpler and much cheaper. Single rooms are $18-20 and doubles $21-$23 (P.O. Box 66, Saipan, Commonwealth of the Northern Marianas 96950).

YAP

More than any of the Micronesians, the sturdy men and women of Yap cling to their inherited way of life. Yap is actually a cluster of four small islands so close together that they seem like one (two are connected by a causeway), and even in Colonia—not to be confused with Kolonia on Ponape—the government and commercial center, many Yapese men wear the thu, which is like a G-string. Women commonly wear dresses when in town but in the thatched villages the universal garb is a long, thick skirt of dried grass.

Yap is famous for its stone money, huge slabs of hewn rock with a hole in the center for carrying on a pole. The stone money, called rai, still has value in ceremonial exchanges.

There are only two hotels, both decidedly on the plain side. The Rai View, near the center of town, has 10 rooms at $14 single, $20 double, including tax. The Esa Hotel, on the other side of an inlet crossed by a bridge, charges $15 and $22, plus 7 percent tax. Both arrange for tours and boat trips.

PALAU

Nowhere in the tropics are marine views more magnificent than among the islands of the Palau chain in the Western Carolines, either above or below the water. The city that the Japanese built at Koror as a capital, commercial center and adjunct to the major naval base withered away after American forces captured the southern islands, but the rebuilt town is again the administrative center and will be the capital of the new republic of Belau when the United Nations trusteeship ends.

Visits to the Rock Islands, where picnickers or campers experience the sense of having a tropical island all to themselves, can be arranged through hotels or the Palau Travel Agency (P.O. Box 336, Koror, Palau 96940). This agency operates a fleet of motorboats seating six persons each, $21 to $16 a head for a cruise of six to eight hours.

For a hotel with a marine view, there is the air-conditioned Palau Continental. It stands high on a hill two miles from town overlooking the sea. The rates are $38-$44 single and $44-$50 double. The hotel charges $7 for transport from the airport, a half-hour ride.●

IN RECOGNITION OF SMALL BUSINESS

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. BROYHILL. Mr. Speaker, a few weeks ago, a reporter from a national magazine called me. She asked: "Representative BROYHILL, why do you think small business concerns are receiving so much attention in Washington nowadays?"

When I replied, I mentioned that the bleak economic picture has had an especially drastic effect on the Nation's small businesses.

I mentioned that our increased awareness of the Government's tendency to regulate by overkill has in turn focused our attention on the targets of that overkill. And small business has been one of the prime objects of our misguided Federal regulatory follies.

I discussed the heightened interest in small business due to the publicity generated by the Small Business Administration and the White House Conference on Small Business.

Perhaps I could have summed it all up by reiterating the theme of last week's recognition of U.S. small business. The answer, in a nutshell, is this: "Small business is everybody's business."

In formally proclaiming the week of May 10-17 as Small Business Week, the President noted, "Small business is truly the backbone of the American economy." I agree with the President.

We have traditionally looked to small business for innovation and productivity. We have looked to small business as the realization of the "American dream" and as the proof that America is a land of opportunity.

In a sense, we have looked to small business as a mirror of all that we want our free enterprise system to be.

Against this backdrop, I found it most disturbing to read in the Washington Post last week that small business bankruptcies have risen 48 percent since the Federal Reserve Board commenced the new tight-credit policy in October.

We seem to be working at odds here. On the one hand, the President and the Congress are patting small business on the back. We are proclaiming a week as "Small Business Week." We are considering major new initiatives to address the concerns expressed by the White House Conference on Small Business.

And then we are turning around and instituting Government policies which tend to negate all of our efforts.

I, for one, feel it is very important to foster and nurture the growth of small business in the United States. This is the primary reason why I agreed to cosponsor the Small Business Development Act of 1980, H.R. 6734. This bill calls for a number of actions to implement the suggestions of the White House Conference. It would be useful for me to highlight the important provisions of this legislation at this point:

At the top of the list of priorities for the White House conference was the need to replace our corporate and individual income tax schedules with more graduated rate scales, and to adopt a simplified accelerated capital cost recovery system. H.R. 6734 would carry out these goals. In addition, it is important to note that the Capital Cost Recovery Act, of which I am a cosponsor, and which calls for a new accelerated depreciation structure, now enjoys the support of 296 Members of this body.

The White House Conferees were concerned about equal access to justice. A provision to provide relief to small businesses in defending themselves against arbitrary judicial and administrative civil action by the Government was included within H.R. 6734. In fact, this provision was recently approved by the House Small Business Committee, and a number of us are hopeful it will receive favorable consideration by the Judiciary Committee.

Relief from Government redtape was a goal of all of the White House delegates. The bill would address this by requiring agencies to issue two-tiered regulation, to provide regulatory flexibility for businesses of differing sizes. In addition, the bill calls for a review of all existing regulations over the next decade.

On a related issue, the Conference recommended that Congress exercise its oversight function by instituting sunset reviews of all laws, regulations, and agencies. The bill addresses this point by requiring all programs to be evaluated against their original goals, the costs versus the benefits of the program, and a breakdown of the population served.

Finally, and this is something which I believe has not been stressed enough, the bill aims to encourage small business innovation and productivity. The share of Federal research which goes to small business would be increased under H.R. 6734. Also, in recognition of the fact that small business has traditionally been the leader in developing new ideas, products, and services, incentives would be offered for business to develop these projects.

In closing, I cannot urge too strongly that my colleagues who are not already cosponsors of H.R. 6734 take a good, hard look at this bill and the need for its enactment. We owe more to small business in this country than rampant inflation and stifled productivity.●

GOLD—PROTECTOR OF THE COMMON MAN

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. PAUL. Mr. Speaker, the greatest threat facing middle- and working-class Americans is our depreciating paper currency.

"Government," said Ludwig von Mises, "is the only agency that can take a useful commodity like paper, slap some ink on it, and make it totally worthless."

HONEST MONEY

Because politicians cannot be trusted with a printing press, the only answer is real money: gold and silver.

More and more people are realizing that Congress and the Federal Reserve have let loose a flood of paper money with no intrinsic value. It is rare to find an average American today who believes that wealth can come out of a printing press. The corporate bailouts, guaranteed loans, Government contracts, and welfare gimmicks have all failed, and the people can be duped no longer.

Those of my colleagues who have been in office for too many years and have therefore lost touch with the people, pay no heed to the rising clamor for money of real value. Congress alone is responsible for inflation, and Congress alone can stop it. It has shirked its responsibility for generations, but events are making a continuation impossible. It is time now to prepare for monetary reform, that is, a gold standard.

WHY INFLATION?

Why does the Government cause inflation by depreciating the dollar?

Commonsense tells us that we can not create wealth by multiplying the number of monetary units. "We are now taught to believe (by the proponents of paper money,)" said Jefferson, "that magical tricks upon paper can produce as solid wealth as hard labor in the earth. (However) nothing can produce but nothing."

Politicians, now as in earlier times, seek to advance their careers by seeming to give the people something for nothing. The something is a Government program; the nothing is inflation, paper money of no inherent value.

Politicians also claim to be helping the poor by creating wealth for them. A little reflection makes it obvious that no wealth can be created by duplicating monetary units. Wealth can be transferred from one to another, but no new wealth is created. And the transfer is always from the less well off to the well to do.

WHO BENEFITS FROM INFLATION?

Politicians inflate in response to pressure, and inducements, from three powerful special interests: some big banks, certain large corporations, and the bureaucracies, all of which benefit from inflation.

Big business benefits because its employees' true wages fall during inflation.

Inflation also benefits debtors. First of all, an infusion of new paper money into the banks lowers interest rates for a time. Also, debts can be repaid in cheaper money. Inflation helps all debtors, but the biggest debtors are the Federal Government itself and the giant corporations. You have to be big to be able to go deeply into debt. Multinational companies can borrow much larger sums, at lower rates, than small businessmen.

The large banks, which have been prominent promoters of fiat currency, have certainly benefited from inflation as well. Their "profits" have been enhanced, since somebody has to loan all the new money created by Government, and pass it on to the large corporations, and charge interest on it. The international bankers are delighted to do so.

Government benefits as well, since inflation, combined with our steeply progressive income tax system, pushes people into higher brackets even when their purchasing power has decreased.

WHO IS HURT BY INFLATION?

First of all, the community as a whole is harmed by inflation. "An increase in the money supply confers no social benefits whatsoever," says Dr. Hans Sennholz. "It merely redistributes income and wealth, disrupts and misguides economic production, and as such constitutes a powerful weapon in a conflict society."

Whoever gets the new money first benefits the most. But the favored industry becomes dependent on new injections of Government credit, and therefore forms a powerful special in-

terest lobby to argue its viewpoint in Washington. Thus does inflation encourage the breakdown of society into waring factions.

People who hold their assets in dollar denominated assets—bank accounts, bonds, pension funds—are badly hurt by inflation. The savers, the people responsible for accumulating the capital necessary for economic growth, are robbed by the inflationists just as surely as if they had been mugged. Retired people are driven into poverty.

Although many Americans today see sound money as the exception and paper as the rule, the opposite is true. Even the American dollar had a connection with gold up until 1971. Since that tie was severed, the debasement of the dollar has accelerated, with the money supply doubling. This doubling has had the inevitable result of boosting drastically the cost of living.

Gold has served as the principle medium of exchange throughout history because: (1) Its value does not depend on a Government fulfilling its promises, especially in times of crisis; (2) it is scarce; (3) it is portable; (4) it is easily divisible; (5) it is durable; (6) it is desirable; (7) it is impossible to counterfeit.

Paper money's worth depends on the promises of government, and it is all too easy to reproduce. Combined with these human flaws that seem to be especially common in politicians and central bankers, no fiat currency can ever serve as a stable medium of exchange for more than a short time. The only answer is a modern gold standard.

THE ANSWER

Government's only reason for existence is the protection of life and property from aggression, foreign or domestic. When it destroys money, government is acting perversely, by harming life and property. The monetary destruction has taken a long time, but we are coming to the end. The foundations have been laid for a new monetary order, however. In 1974, we reversed the unconstitutional 1934 law that barred private ownership of gold. In 1977, gold clause contracts were legalized. In 1979, a bill to repeal the Treasury's power to seize privately held gold was passed by the House and is now pending in the Senate. The minting of gold medallions, as provided by law, will emphasize the importance of the people's right to own gold.

We must also work on halting massive gold sales at below market prices to European central bankers and Arab sheiks. If we continue to sell gold, let's do so in sizes that Americans can afford—one, one-half, and one-quarter ounce coins. Eventually we must repeal the legal tender laws, which work only to the benefit of the Government and other large debtors, by forcing creditors to accept depreciated currency. Federal Reserve notes must be made 100 percent redeemable in gold as of a fixed date, and at a rate determined by the market price on that date. Along with this, we must balance the budget and pledge never again to expand the money supply.

Hard money of gold, as our Founding Fathers knew, protects the common man. Paper money aids only the special interests.●

THE DEREGULATION COMMITTEE AND THE DIFFERENTIAL ON MONEY MARKET CERTIFICATES

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. PATTERSON. Mr. Speaker, this afternoon, the Depository Institutions Deregulation Committee is scheduled to meet to consider eliminating the differential on money market certificates when rates are below 9 percent. I believe strongly that the committee would be wise to reconsider that course of action.

As we all know, the housing industry today faces one of its biggest challenges. The housing finance industry is attempting to cope with the changes enacted in Public Law 96-221—changes that affect the fundamental operating practices of that industry.

During consideration of H.R. 4986, which later became Public Law 96-221, it was clear that the major differences between our depository institutions would be phased out gradually and certainly with the ability of our thrift institutions to offer services now commonly offered by commercial banks. These powers have not been implemented yet, but the Deregulation Committee seeks to alter in a critical fashion the ability of the thrift industry to attract and retain funds which sustain this Nation's housing industry. It is my firm belief that this differential should be left intact at this time and I would recommend that the committee review courses of action that it can and should take to assure the continued ability of our depository institutions to complete in the marketplace.●

THE REALITIES IN THE MIDDLE EAST—PERSIAN GULF AREA

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. BOB WILSON. Mr. Speaker, the House Armed Services Committee recently returned from the Middle East-Persian Gulf area. I found conditions are very much in line with that described by former President Nixon in his recent book, "The Real War."

I include a review of Nixon's comments on the Middle East as reported in the San Diego Union, April 29, 1980:

SOVIET THREAT LOOMS IN MIDEAST

(Five years out of office, former President Richard Nixon's record in foreign policy stands virtually unblemished, whatever may be said of him in other fields. In his new book, "The Real War," he analyzes the international situation and offers expert advice on how to deal with it. In the third of seven excerpts from the book, he finds the Soviet Union moving menacingly toward the Persian Gulf oil fields He warns that Moscow has equipped the Cuban army with the latest armored weaponry and is stockpiling in Southern Yemen the type of material that would be needed for an armored strike across the Arabian Desert.)

If the Soviet Union gains the power to turn off the oil spigots of the Middle East, it will gain the power to bring most of the industrialized West to its knees.

To achieve this, it is not necessary that the Soviets actually take over the nations of the Persian Gulf, as they took over Afghanistan. Their purpose can also be served by external pressures or internal upheavals that deny those countries' resources to the West.

The guns of World War II were barely silenced when Stalin made his first push toward the Persian Gulf. After their wartime occupation of the northern part of Iran, the Soviets brazenly refused to remove their troops and demanded creation of a "joint company" to exploit the oil reserves of northern Iran, with 51 percent of the shares to be held by the U.S.S.R.

President Harry Truman later wrote: "The Soviet Union persisted in its occupation until I personally saw to it that Stalin was informed that I had given orders to our military chiefs to prepare for the movement of our ground, sea and air forces. Stalin then did what I knew he would do. He moved his troops out."

The next Soviet threat to the Persian Gulf came in Greece and Turkey, where Britain was cutting back on its commitments.

The Truman Doctrine was born; American power would seek to restrain Soviet power in the eastern Mediterranean.

Europe's shift in basic energy source from its own coal to imported oil dramatically changed the geopolitical structure of the world. Now oil is the lifeblood of modern industry, the Persian Gulf region is the heart that pumps it, and the sea routes around this Gulf are the jugular through which that lifeblood passes.

Japan relies on a "bridge of oil tankers." The gulf supplies 70 percent of Japan's oil needs as well as over half of Europe's.

Oil now supplies nearly 50 percent of U.S. energy, and while we depended on imports for a third of our oil in 1973, we now import half of it. Further, Canada was one of our leading suppliers in 1973; five years later the Organization of Petroleum Exporting Countries (OPEC) provide more than 80 percent of our imports.

The question of who controls what in the Persian Gulf and the Middle East is the key to who controls what in the world.

Britain's phased withdrawals from responsibility "East of Suez" after World War II created a series of power vacuums that were filled by anti-British nationalists, egged on by the Soviets.

In 1951, Mohammed Mossadegh pushed through the Iranian legislature a measure nationalizing the Anglo-Iranian Oil Co., and then himself became prime minister.

In 1953 Mossadegh attempted to overthrow the shah. The CIA and other allied intelligence agencies gave covert help. Mossadegh was ousted and the shah was restored securely to his throne.

New discoveries of oil in the late 1950s made the supply so plentiful that in 1960 Exxon cut the price it was willing to pay the oil-producing countries. The oil-producing countries were distraught. Five of them banded together in an organization that got little attention at the time: the Organization of Petroleum Exporting Countries.

At the time of the 1967 Arab-Israeli Six Day War OPEC's Arab members declared their first oil embargo against the West. It quickly collapsed, however, when non-Arab producers, led by Iran and Venezuela, filled the gap.

A 27-year-old firebrand named Moammar Khadafy seized power in Libya in 1969 and got one producer to post a 30-cents-a-barrel price hike. The genie was out of the bottle. A "leapfrogging" of prices had begun.

In the fall of 1973 OPEC decreed a quadrupling in the price of oil.

Overnight, the economic structure of the world was turned upside down.

Rather than replace the British presence with a direct American presence the United States chose to rely on local powers, primarily Iran and Saudi Arabia, to provide security for the Gulf, while it assisted by making arms and other supplies available. This "two-pillar policy" worked reasonably well until one of the pillars—Iran—collapsed in 1979.

In addition to the threat presented by their naval presence, in recent years the Soviets have been converging in a bold pincer movement on the Gulf. They are making two wide flanking movements in an attempt to cut the West's oil jugular.

The first pincer came across Africa. It started in Angola.

In 1978 a pro-Moscow group seized control of Afghanistan and eagerly accepted offers of aid. And then the Shah of Iran was driven from his throne. In the final days of 1979, with the Shah gone, with Pakistan in turmoil and shunned by the United States, the Soviets brazenly moved the Red Army itself into Afghanistan, bringing Russian planes and armor within easy striking range of the narrow entrance to the Persian Gulf.

After the British withdrew in 1971 Iran had taken their place as the military power that guaranteed stability in the Gulf, Iranian forces occupied the strategically located islands of Abu Musa and Tumbs overlooking the Straits of Hormuz. In 1973 the shah sent Iranian troops to Oman's Dhofar Province, where Marxist guerrillas were threatening Oman. The shah ordered work begun on a naval base at Chah Bahar in Iranian Baluchistan to guard the entrance to the Straits of Hormuz.

In addition to refusing to participate in the Arab oil embargoes of 1967 and of 1973, the shah continued to recognize Israel, provided oil for the U.S. Mediterranean Fleet, and kept Iraq from playing any significant role in the Yom Kippur War. During that war his was the only country in the area to prohibit Soviet overflights; he also rushed oil to an American carrier force in the Indian Ocean to keep it in operation. When U.S. allies were asked to send arms to South Vietnam before the Paris accords forbade it, the shah stripped himself of F-5s.

The new Iranian regime has made enemies of its neighbors by pitting Shiite Moslems against Sunni Moslems and reopening territorial disputes the shah had settled.

The shah's successors have abandoned work on the Chah Bahar naval base and canceled most of his billions of dollars of projected arms purchases.

The Russians have invaded Afghanistan, which they might not have dared do if the shah were still on his throne, allied with the United States and in control of the once formidable Iranian army. Pakistan now feels the hot breath of the Russian bear on its own border, and has to expect that the Soviets will soon try to subvert it by encouraging and directing Baluchi and Pushtun rebellions.

The vast majority of the crude oil reserves in the Persian Gulf are within a few hundred miles of the Iraqi border—in the nearby areas of Iran, Kuwait, Saudi Arabia, and the United Arab Emirates.

The Soviets remain interested in gaining control of Iraq.

The Soviets have recently equipped the Cuban army with the latest in armored weaponry, and the Soviet brigade discovered in Cuba in 1979 may well be training Cubans in armored warfare. Intelligence reports have indicated that the Soviets are stockpiling in South Yemen precisely the sort of advanced battle tanks, combat carriers, and other arms and equipment that would be needed for an armored strike across the desert.

Russia is moving southward toward that region in which, as former Soviet Foreign Minister Vyacheslav Molotov said, the "center of the aspirations of the Soviet Union" lies.

The Soviet Union now exports 3 million barrels of oil a day; half of its 1978 foreign currency earnings came from oil exports. Forecasts of Soviet oil production suggest that it may peak soon, and decline during the 1980s; the Soviets themselves may well become net oil importers during this period.

There are no natural barriers separating Afghanistan from the Arabian Sea and the Straits of Hormuz. There is only barren land and, ominously, a zone of instability.

That zone of instability is called Baluchistan. Five million Baluchi tribesmen live in southern Afghanistan, western Pakistan, and southeastern Iran. Even before the Soviets openly invaded Afghanistan, there were reports that they were using camps in that country to train, indoctrinate, and supply separatist Baluchi rebels from Pakistan. A People's Republic of Baluchistan would give the Soviets a red finger pushing through to the Indian Ocean.

Oil supplies from the Mideast are vulnerable to three major threats—the potentially explosive Arab-Israeli conflict, Soviet adventurism, and local revolutionary forces such as those that overthrew the shah.

For years Americans thought of Middle Eastern conflicts almost exclusively in terms of the Arab-Israeli contest. But there is unrest or the danger of unrest in every country in the Middle East.

Even the "Islamic revolution" defies simple categorization. Among the world's 800 million Moslems there are more non-Arabs than Arabs; Moslems form a majority or a sizable minority in 70 countries. The world's most populous Moslem country is Indonesia. There are more Moslems in India, Nigeria, the Soviet Union, and even China than in most countries of the Middle East.

Israel has demonstrated in four wars over the past 30 years that it can more than hold its own against its neighbors. But if the Soviet Union were to stage a full-scale intervention, as it threatened to do in 1973, Israel would go down the tube. Even if Israel has or acquires nuclear weapons, its modest nuclear capability would not be a deterrent against the nuclear might of the Soviet Union. The key to Israel's survival, therefore, is U.S. determination to hold the ring against the Soviets.

There are some basic principles that must form the foundation of any viable policy. First, the Palestinians must recognize Israel's right to exist in peace and must reject the use of terrorism or armed action against Israel or Israeli citizens. Second, Israel must comply with the provisions of U.N. Resolution 242 with regard to the return of occupied territories. However, Israel is entitled to secure borders and cannot and should not be expected to agree to setting up a hostile armed state in its gut on the West Bank. Third, occupied territories that are returned should be demilitarized.

Since oil is not a convenience for the West, but a necessity, the United States and our allies in Europe and Japan must make it a priority to provide economic and military assistance to governments in the area that are threatened by internal or external aggression. The enunciation of a grandiose "doctrine" that the United States will resist a threat to the region by responding militarily is an empty cannon unless we have the forces in place to give credibility to that pledge.

It is essential that the United States have base facilities so located as to enable it to project its power convincingly. And then, when we do project power, we must do so resolutely. Announcing the emergency dispatch of an aircraft carrier to the Persian Gulf only to turn it back to avoid provocation, sending fighter planes to Saudi Arabia but sending them unarmed—gestures such as these are worse than futile. By inviting contempt, they encourage aggression.

Above all, the leaders of Saudi Arabia, Oman, Kuwait, and other key states must be unequivocally reassured that should they be threatened by revolutionary forces, either internally or externally, the United States will stand strongly with them so that they will not suffer the same fate as the shah.●

TUSCALOOSA'S MAN OF THE YEAR

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. SHELBY. Mr. Speaker, Tuscaloosa, Ala., has seen fit to recognize Tim Parker, Jr., as its Citizen of the Year, and I simply want to second that nomination here today.

Tim has been an exemplary citizen and a very real asset to the city of Tuscaloosa. In civic responsibilities, Tim serves as chairman of the Tuscaloosa County Industrial Development Authority, on the boards of the Kiwanis Club, the First National Bank of Tuscaloosa, and the Stafford Inn, is the 1980 president of the United Way of Tuscaloosa County, sits on the executive committee of the Greater Tuscaloosa Chamber of Commerce, acts as president-elect of the YMCA Central Branch Board, is a participant in the 1980 Heart Fund campaign, chairs the fund-raising drive for 1981's Heritage Week, and acted as president of the Tuscaloosa Tip Off Club to promote University of Alabama basketball. Somehow Tim also finds time to earn a living as vice president of Parker

Towing Co., Inc. A longtime Alabamian, Tim graduated from the University of Alabama and was subsequently commissioned as a second lieutenant in the U.S. Army serving a tour of duty in Vietnam.

It is a pleasure and an honor to know this extraordinary man and to have the forum in which to extend to him my own congratulations for a job well done. We here in Congress could take a tip from the boundless energy and purposefulness of Tim Parker, Jr.●

A TRIBUTE TO MARGARET SWEZEY: 1980 BANKER ADVOCATE OF THE YEAR

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. ADDABBO. Mr. Speaker, I would like to take this opportunity to pay tribute and call to the attention of my colleagues the accomplishments of Margaret Swezey, vice president and director of government and community planning for the Citibank office in Flushing, N.Y. Recently, in recognition of her many devoted years on behalf of the small businessman, this charming woman was named the "1980 Banker Advocate of the Year" by the Small Business Administration. No one has ever been so deserving of such an honor.

I have known "Peg" for many years and can honestly say that I have never met anyone as concerned and devoted to the needs of the small businessman and woman as she. Very early in her career Margaret understood how important the small business was to the life of a neighborhood, fully understanding that when small businesses begin to leave an area, the neighborhood stands a very good chance of deteriorating. She understood that the small shopowners, restaurateurs, and so forth, always were battling to raise money for capital expenditures, always looking for banks to lend them money. Much to her credit, a great deal of her time at Citibank has been spent working to see that the credit and counseling needs of these people were met. Under her guidance, the Queens Branch was the first Citibank office in New York City to regularly participate in the Small Business Administration loan guarantee program. In 1979, Citibank became the first certified bank in New York under the SBA's bank certification program. She was the impetus that persuaded other lending institutions to join the bank certification program, making these services available to both banks and businesses.

This active woman is constantly on the go, regularly participating in education seminars for businessmen and women, appearing on radio and TV programs, as well as serving on 17 different municipal boards. In spite of her hectic and time-consuming schedule, she recently took time out to attend the White House Conference on Small Business, in addition to her membership on President Carter's Interagency Committee on Women's Business Enterprise. Furthermore, she presently serves on SBA's National Advisory Council, several chambers of commerce, and on the National Association of Women Bankers.

The United States is a Nation made up of thousands of small businesses, each a vital part of our gross national products, each a source of innovation and new jobs. Without the small businessman and woman, and without the banks and lending institutions that provide the much needed funds to keep them going, our economy would be in a very bad way. Thanks to people like Margaret Swezey I am confident the small business network will be a valuable resource for many years to come. I wish her continued success in her endeavors and many more happy and healthy years.●

EL SEGUNDO SALUTES RETIRING COUNCILMAN RICHARD G. NAGEL

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. DORNAN. Mr. Speaker, the city of El Segundo, Calif., is losing one of its most dedicated public servants with the retirement of Councilman Richard G. Nagel.

Councilman Nagel has served his community in many capacities. First elected to the council in 1964, his leadership ability was immediately recognized with his election as mayor pro tem, a position he held for 14 years.

A resident of El Segundo for over 25 years, Mr. Nagel has been active in efforts to maintain its environmental quality. His distinguished service includes tenure as chairman of the League of California Cities Quiet City Commission and membership in the California Legislative Noise Advisory Committee, the National League of Cities Environmental Quality Steering Committee, the Environmental Protection Agency Noise Advisory Committee, and the EPA Five-Year Noise Plan Advisory Committee.

A father of seven, Councilman Nagel's community involvement includes active participation in the little league, Bobby Sox, and Boy Scouts. On our Nation's 200th birthday, he proudly served as a member of the Bicentennial Committee.

Commitment and ability have led to further government service in Councilman Nagel's career. His membership in the League of California Cities—Los Angeles Division, of which he was the director, spans three decades. He was also the director of the Inter-City Transportation Committee, an important post in a huge metropolitan area dependent on the automobile.

Mr. Speaker, the list of achievements goes on and on. The people of El Segundo love Dick Nagel for his dedication to keep their city a safe, beautiful community. As their Representative in Congress, I know the high regard in which he is held by the citizens who have elected him for 16 years of government service. That, perhaps, is the greatest compliment that can be paid to an elected official. While his activities and involvement will certainly continue, I join thousands of southern Californians today in congratulating Dick Nagel on an outstanding career in El Segundo city government.●

THE FTC, A NUISANCE?

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. DOWNEY. Mr. Speaker, there has been much written about the FTC over the past year. Most of it has been critical.

Oddly enough, I found the following article in the business section of Newsday last week. Regardless of their various positions on the agency, I hope my colleagues will take the time to read it.

The article follows:

FTC Is a Nuisance, But a Needed One

(By Robert Reno)

Excessive zeal in defending the rights of the American consumer can get you killed.

The hit men of Washington's business lobby have made this all too plain to the Federal Trade Commission. The 65-year-old agency officially went out of existence for one day this month while its appropriations were held hostage in Congress by business interests determined to rid themselves of what they regard as excessive FTC interference in the free marketplace.

This is in line with the currently fashionable and jargon-ridden movement against big government per se and bureaucrats, taxes and heavy-handed regulation in general.

The FTC's enemies are legion, as well they should be. Nobody can deny that the agency is a pain in the neck. When you try to be a civilizing influence in something as basically barbaric as a marketplace, it is silly to expect anything different.

What the FTC has tried to do in recent years essentially is to bring the same protection to buyers of cough syrup and eyeglasses as the Securities and Exchange Commission has long provided for richer consumers, who buy stocks and bonds and other things that a lot of ordinary people can't afford.

Ordinary citizens to whom the FTC is just another remote and unfamiliar bureaucracy may be tempted to applaud this latest assault on the merchants of red tape and regulation. To some, it may seem like just another case of money-spending government goodie goodies getting their just due.

But if the FTC is an expensive nuisance to be gotten rid of, it is important to ask our-

selves just what it is we are defending against it.

Should private vocational schools using slick advertising be able to lure lower income groups into paying high tuition to be trained for jobs that don't exist? The FTC recently got a Florida institution to agree to pay up to $750,000 in refunds to students it claimed were so misled.

Should a major retailer be able to reject applicants for credit without giving them a reason? The FTC won $175,000 in penalties against a retailer that did so.

Should land speculators be able to sell "dream lots" in a stretch of remote and godforsaken Colorado scrub desert by using elaborate brochures picturing clear mountain streams and ski slopes? The FTC has secured up to $14 million in refunds to consumers who bought these lots.

Should anyone buying a refrigerator or air-conditioner be able to get a good idea of how much electricity it's going to use and how efficient it is compared with other models? Only because of a new FTC regulation soon to take effect will you be able to do so.

If you buy a size 10 garment that shrinks to a size 2 if washed in warm water, shouldn't the label tell you this? It is an FTC regulation that has forced all garment manufacturers to put care labels on their goods.

If a wood stove will burn down your house if it's installed too close to a wall, shouldn't this be mentioned in the instructions for installation? One major retailer is now reinstalling about 200,000 wood stoves because the FTC thought so.

Should a major manufacturer of blue jeans be allowed to maintain artificially high prices because it tends to dominate the market? Consumers of blue jeans have saved an estimated $50 million since the FTC took action.

Should filling stations do something as simple as posting the octane rating of gasoline on the pump where a customer can read it? They have done so since the FTC required it.

Should purchasers of life insurance be able to make an intelligent comparison of the cost of different policies without having a degree in accounting? The FTC thinks so, as this is one of the things that got it into so much trouble with Congress and the insurance lobby.

Should one of the largest corporations in the world be allowed to market bread containing sawdust without listing this ingredient? One did, but doesn't any more since the FTC got after it.

Should the drug industry be allowed to make extravagant claims for cold remedies that medical science knows to be worthless? It did for years until the FTC stopped it.

And, finally, is the free market such a fragile and perfect thing that it can't survive a few idealistic if bothersome and sometimes misguided attempts to improve it?●

SUPPORT FOR SUSPENSION OF ARMS TO GREAT BRITAIN FOR USE IN NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. BIAGGI. Mr. Speaker, as chairman of the 130-member ad hoc congressional Committee for Irish Affairs, I wish to share with my colleagues a letter I recently sent to Secretary of State Edmund Muskie. The letter, which was cosigned by 17 of my colleagues on the ad hoc committee, reaffirmed our support for the 9-month suspension of shipments of U.S. arms to the Royal Ulster Constabulary—the main police force of Northern Ireland.

Last July 12 I offered an amendment to the State Department appropriations bill which would have banned all shipments and exports of U.S. weapons to Great Britain for use in Northern Ireland. At the request of Chairman CLEMENT ZABLOCKI of the House Foreign Affairs Committee I withdrew my amendment and a committee investigation and hearing was called. It was following this that the Department of State announced the suspension.

The reasons to continue this suspension are as relevant today as they were at the time it went into effect. The text of the letter provides additional detail and I wish to insert it in the RECORD at this time:

AD HOC CONGRESSIONAL COMMITTEE
FOR IRISH AFFAIRS,
Washington, D.C., May 16, 1980.

Hon. EDMUND S. MUSKIE,
Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: We the undersigned are writing to oppose any effort by the Department of State to lift the 9-month suspension of United States arms shipments to the Royal Ulster Constabulary of Northern Ireland.

Published reports in Hibernia and the Irish Echo strongly suggest that the Department is contemplating such an action. The suspension was put into effect as a result of an amendment sponsored by Mr. Biaggi to the State Department's fiscal year 1980 Appropriations bill. The amendment banned the export and licensure of any U.S. weapons to Great Britian for use in Northern Ireland. The amendment was withdrawn after a promise of a full investigation by the House Foreign Affairs Committee and after this investigation, the suspension was imposed by State.

The circumstances which led to this Congressional action involved a January 1979 sale of some 3,500 weapons to the RUC approved by your Department of Munitions Control. This sale was approved despite the fact that the RUC has a proven record of human rights violations documented by such organizations such as Amnesty International and a British-appointed panel inquiry known as the Bennett Commission. This sale was in violation of the spirit of Section 502(b) of the Foreign Assistance Act which prohibits sale of U.S. arms to nations or organizations who engage in patterns of human rights violations.

We stand opposed to any change in the present policy unless the RUC demonstrates to our satisfaction that they have in fact remedied those deficiencies in their policies which resulted in violations of human rights. We have seen no evidence of improvements at this point.

When the Department instituted this policy, it demonstrated that our commitment to human rights was universal. It was an important decision, reaffirmed by the President himself in a meeting with Prime Minister Thatcher in December.

We reaffirm our support for the suspension and hope to hear from you in the very near future about present State Department policy.

With kindest regards, we remain.

Sincerely,

Mario Biaggi, Chairman; Nicholas Mavroules; Frank Annunzio; Peter A. Peyser; Geraldine A. Ferraro; Jerome A. Ambro; Hamilton Fish; Robert A. Roe; Lester L. Wolff; Harold C. Hollenbeck; Antonio Borja Won Pat; Leo C. Zeferetti; Herbert E. Harris; Norman F. Lent; William Carney; Benjamin A. Gilman; Raymond F. Lederer; Michael O. Myers.●

THE SOVIET ACADEMY OF SCIENCES AND ITS SOCIAL INSTITUTES—PART II

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. McDONALD. Mr. Speaker, today I am placing in the CONGRESSIONAL RECORD part II of this item. Part I appeared in the CONGRESSIONAL RECORD for May 14, 1980, on page E 2403. In this part the authors discuss some of the individuals involved in these institutes. Among them is Colonel Kulish, who spent an extensive amount of time in the United States about 10 years ago visiting any and all top-level Americans who would speak with him. To further point out the emphasis the Government of the U.S.S.R. places on these institutes, it is interesting to note that one Valentin M. Berezhkov, a veteran foreign affairs specialist, is presently attached to the Soviet Embassy in Washington, D.C., representing the Institute of the U.S.A. and Canada of the Academy of Sciences U.S.S.R.

Part II follows:

THE SOVIET ACADEMY OF SCIENCES AND ITS SOCIAL INSTITUTES—PART II

The power base of the "old-boy" network has many forms. As the OSS and its offspring, the CIA, attracted younger members of the United States "establishment" in the 1940s and 1950s, so have the Soviet social science institutes attracted many offspring of the Communist Party elite. Sons and daughters of Kosygin, Gromyko, and Mikoyan have served on the staffs of either IUSA&C or IMEMO. Currently, Mikoyan's son is editor of the Institute of Latin America's journal, and Gromyko's son heads the Institute of Africa. According to reliable sources, sons and daughters of top military leaders, such as Marshal Zakharov, also have been on the staffs of these institutes.

Between 1965 and 1971, men and women from at least thirty different agencies had done graduate work at IMEMO, the largest of the social science institutes. Among them were rising individuals from the Ministry of Foreign Affairs, the Academy of Foreign Trade, Tass, *Pravda*, the International Department of the Central Committee, Brest University, and the Institute of Oriental Studies. Advanced degrees mean considerably more to an individual's career in the Soviet Union than in the United States. The power of institute faculty members to advance the careers of students who already are well-placed in Party and government positions enhances the status both of the institutes and the faculty members.

The Soviet Foreign Ministry cooperates with the institutes in placing and in training

institute staff members. While on leave of absence from their institutes, faculty members may serve as employees of the United Nations or in the Soviet Embassy in Washington. At the completion of their assignments, they may return to their institutions. The Soviet Embassy in Washington has a full-time position for a representative of Dr. Arbatov's IUSA&C.

It is likely that within this "old-boy" network there are jealousies, conflicting personal ambitions, and even divergent views on some issues. But all get instructions from the same Politburo, and speak with one voice on Soviet policy matters. There are no "hawks" or "doves" among them. All represent the voice of the Kremlin leadership.

Another indicator of the importance attached to the social science institutes, and of the probable nature of their influence on Soviet policy, may be found in the number and quality of military theoreticians assigned to the institute staffs. Here it should be pointed out that the military profession in the USSR devotes far more time and energy to the study and formulation of strategy and doctrine than does its counterpart in the US. Some Soviet officers become career theoreticians and the more outstanding attain great prominence within the profession. Among those who either have been or now are associated with the institutes are:

V. V. Larionov, who was the composing editor of all three editions of Marshal Sokolovskiy's *Military Strategy.* In 1966, he was a Frunze Prize winner and in the early 1970s he headed the Political-Military section of IUSA&C. In 1974, Larionov was assigned to the Academy of the General Staff, the USSR's highest military college, and promoted to general major. His latest of many books, scheduled for publication this year, is entitled *Local Wars.*

Col. V. M. Kulish was assigned to IMEMO in the early 1970s. In 1972 he edited perhaps the most significant military book of that year, *Military Forces and International Relations,* which examined the questions associated with projecting Soviet military power beyond the boundaries of the Warsaw Pact. In the mid-1970s, Kulish transferred to the Institute for the Economy of the World Socialist System, where he continued in the same area of research.

General Colonel N. A. Lomov, for many years head of the Department of Strategy at the Academy of the General Staff, has been a consultant to IUSA&C. Daniil Proketor, a former faculty member of the Frunze Military Academy's Department of History of War and Military Art, is a staff member of IMEMO.

Col. Lev Semieko, one of the most prolific of the Soviet defense intellectuals, is serving on the staff of IUSA&C. He has been among the primary Soviet writers on SALT and in recent months has attacked every effort to modernize NATO forces. He is, incidentally, vice chairman of the Disarmament Committee of the Soviet Peace Council.

General Lieutenant M. A. Milshtein, of whom we will say more later, is head of the Political-Military Section of IUSA&C. In the mid-1950s he headed a new department at the Academy of the General Staff, formed to study the military strategy of the capitalist nations.

In recent years, members of the Soviet research institutes have been the Kremlin's primary spokesmen against the B-1, the neutron bomb, cruise missiles, and currently the "Eurostrategic" missile. Their propaganda campaign is clever, taking full advantage of the free and open discussion of arms-control matters permitted in the West. For their own weapon systems, they claim the Backfire bomber "has no strategic significance," and the SS-20 "is for defensive purposes" only.

IUSA&C publishes a monthly journal, *USA: Economics, Politics, Ideology.* Journal articles indicate the basic purpose of the institute. In 1979, eleven dealt with SALT II, and thirty on the United States economy. Fifty articles were about United States domestic problems, particularly vulnerabilities. More than one hundred articles about United States military strategy and foreign policy have been published in this journal in the last three years.

Members of the institutes frequently have articles printed in *Red Star,* the daily newspaper of the Ministry of Defense, or in one of the service journals such as *Herald of PVO* (Air Defense). What is written for internal consumption in these Soviet publications is much different from the moderate and restrained articles by IUSA&C staff members that may appear in the New York *Times,* for example.

The social science institutes also prepare advisory reports (*Spravka*) on policy issues for departments under the Secretariat of the Party's Central Committee and special monthly internal bulletins (*Spets Bulletins*) with a very restricted circulation.

THE INSTITUTES' EXTERNAL INFLUENCE

Besides their primary mission of supporting the top echelons of the Party and the government in the formulation of Soviet policy, the social science institutes serve a second purpose—that of persuading influential officials and private citizens of non-Communist countries of the USSR's peaceful intent, as a step toward the broader objective of disarming the West.

Specialists in the Soviet Union concerned with the United States and Canada call themselves "Amerikanisti." The best known and most influential are found in the social science institutes of the Academy of Sciences, principally in IUSA&C and IMEMO. Their considerable persuasive powers—at least so far as foreigners who have only a superficial knowledge of the USSR are concerned—are exercised both on distinguished visitors to the USSR and in meeting with influential foreigners abroad. But, first, how do IUSA&C and IMEMO—principally the former—handle their important foreign guests in the USSR?

Despite the belief that members of the Soviet research institutes may try to foster, there has been no general opening up of Soviet society during the so-called détente period. Foreigners today have as much or more difficulty in meeting with Soviet citizens as during the Khrushchev period. There are now specific Soviet groups authorized to deal with foreigners, the members of which are carefully screened and trained for this purpose. Among them are selected members of the social science institutes.

In the Soviet Union approximately 325 of the 400 largest Soviet cities are closed to foreigners, and probably more than ninety-five percent of the land areas as well. Foreigners are permitted to stay only in special hotels, and to travel only on selected air routes and railroads. Travel by automobile or bus is restricted to approximately 5,000 miles of highways in the entire Soviet Union.

United States citizens can visit the Soviet Union in a very limited number of ways. If considered influential, they may be invited to Moscow by the Soviet Academy of Sciences. A standard program has been worked up. Many of those invited do not know the Russian language, nor are they familiar with the USSR. They are met at the airport by an English-speaking guide and a senior institute member to take them to a convenient hotel. A full and pleasant schedule is arranged: the Bolshoi Theater, a tour of the Kremlin treasures, a visit to Leningrad for a tour of the Hermitage, or perhaps a side trip to Kiev or Tbilisi. Discussions are arranged with selected English speaking members of the research institutes. Guests are shown a Potemkin Village, as carefully staged as any performance in the Bolshoi Theater.

The greatest cause for concern is that so few who visit the Soviet Union know enough about that country to even realize how they are controlled. Too many return home believing that their hosts are educated, urbane people (which they are), who sincerely want to cooperate with the non-Communist world but who feel threatened by the "encircling" NATO alliance and by the People's Republic of China. But the visitors have, in fact, seen only what their hosts wanted them to see, heard only what their hosts wanted them to hear, and met only those Soviet citizens whom their hosts wanted them to meet.

A few Western "Sovietologists" are accepted by the Soviets under various exchange programs, but only to do research on subjects approved by the Soviet authorities, such as the early works of some obscure Russian poet. Many come as part of a group to attend a symposium or conference. The KGB regularly harasses and attempts to intimidate those who move outside of the regular group pattern.

For the Soviet Amerikanisti, a visit to the United States has been an entirely different story—at least until the Soviet invasion of Afghanistan. In the early 1970s, as détente was coming into full bloom, leading Americans in government, education, science, and business visited Moscow in increasing numbers. English-speaking members of the research institutes, after being cleared by the KGB to talk to foreigners, found themselves swamped with requests to meet the many guests. It was only natural that invitations would be extened to the Soviet hosts to travel in the United States. When they visit the United States, they have ready access to influential organizations and leaders in every field of activity. They can travel almost as freely around the country as can any American.

In their studies and travels in the "capitalist" world, Soviet scholars are acquiring political, military, economic, scientific, and technical data defined by Marshal Sokolovskiy in *Military Strategy* as strategic intelligence. It would be difficult to find a better method of obtaining information on another nation than that used by the Soviet institutes. They have put intellect into the intelligence process.

The meetings with Americans have offered a platform to justify Soviet foreign actions and to sell Soviet policies. As Dr. Arbatov once remarked, his job is not simply to study the United States, but also to explain the Soviet Union to Washington. When selling "peace-loving and progressive" Soviet policies, it should be expected that the institute members give out a great deal of "disinformation." In private conversations and small discussions, the "Amerikanisti" have argued persuasively that "the Soviet Union does not threaten anyone" and that the deployment of new United States weapon systems, such as the "Eurostrategic" mobile missile in NATO, might bring the "hardliners" to power in the Soviet Union.

The head of the Political-Military section of IUSA&C, General Milshtein, who was

mentioned earlier, is a good example of how the Amerikanisti operates abroad. He has visited this country and Canada many times and met with the heads of research organizations, US senators and senior congressional staff members, and Americans prominent in many fields. During these trips, he has lectured at several leading US universities where he impressed his audiences with his detailed knowledge of the US armed forces. In his last visit, during the fall of 1979, General Milshtein attended defense hearings on Capitol Hill, and in California addressed several groups on arms control, urging the rapid approval of the SALT II Treaty.

SUMMARY

There is no way of knowing to what extent the social science institutes of the Soviet Academy of Sciences influence Soviet policy. If there were no institutes, the Kremlin's foreign and defense policies probably would be much the same as they are now, but perhaps articulated and implemented with less sophistication. In any event, there is no reason to fault the USSR for setting its best brains to work on its problem and objectives as seen from the Kremlin.

There is plenty of reason to criticize the way the social science research institutes have carried out their second function of influencing public and official opinion outside the USSR. For very little cost, trained Soviets are able to meet with Western leaders, both in Moscow and in the West, to gather information first-hand, and to spread disinformation.

The criticism should be directed as much at ourselves as at the Soviets. The West has meekly accepted rules laid down by the Kremlin that have made these potentially valuable contacts—including contacts between Western Sovietologists and Amerikanisti—a one-way street. This should have been expected, but it need not have happened. An informal association of US scholars, for example, could have demanded reciprocity.

Whenever the West agrees to play by Soviet rules, it will always come out a loser. That message apparently is now understood in Washington and elsewhere, but dangerously late in the game.●

FATHER PETER FIORE MARKS ORDINATION ANNIVERSARY

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. SOLOMON. Mr. Speaker, on Sunday, May 25, the Reverend Peter A. Fiore, OFM, a native of my hometown, Glens Falls, N.Y., will celebrate the silver jubilee of his ordination to the priesthood with a concelebrated Mass in St. Mary's Church.

I would like to take this occasion to call the attention of my colleagues in Congress to the life of Reverend Fiore, for I believe that he exemplifies the values of patriotism, service to the community, and love of God to which all Americans should aspire.

Father Fiore is the son of Mrs. Peter Fiore of 54 Walnut Street, Glens Falls, and the late Mr. Fiore. A graduate of St. Mary's Academy, he holds a B.A. from Siena College and an M.A. from the Catholic University of America. He received his Ph. D. from London University in England.

He entered the Franciscan order in 1950 at Paterson, N.J., and, after studies in philosophy and theology in Washington, D.C., he was ordained to the priesthood on June 9, 1955, by the then apostolic delegate to the United States, the Most Reverend Amleto G. Cigognani, DD.

Father Fiore, who is a professor of English at Siena College and chairman of Siena's English department, has held various administrative offices at the college. Aside from his studies in England and Italy, he has been visiting professor at London University. He is the author of three books and numerous articles in literary journals. Twice he has been the recipient of grants from the Glens Falls Foundation, and he has also received grants from the British Museum in London for research and publishing in the field of English literature.

He is a member of the Lake George Opera Festival Association and the Albany League of Arts.

A veteran of World War II, Father Fiore is a 25-year member of Glens Falls Post 233, American Legion, and serves as chaplain of the Past Commanders Association of Post 233.

I hope all my colleagues will join with me in recognition of this outstanding citizen who has contributed so much to my community, Father Peter A. Fiore.●

THE 10-CENT GASOLINE TAX—AN UNNECESSARY BURDEN ON THE WORKING PEOPLE OF AMERICA

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. KEMP. Mr. Speaker, the courts have cast doubt on the constitutionality of the administration's oil import fee, and Congress should act now to seal the fate of this dangerous plan. If there is to be any change at all in the Federal gasoline tax, it should be considered, debated, and voted on by the Congress.

And Congress should let the administration know that we don't need higher gasoline taxes. Americans have already made tremendous sacrifices to conserve gasoline—gasoline sales have dropped by more than 12 percent since last year. And the American people have repeatedly gone on record against the notion that a drastic increase in gasoline or other petroleum taxes is a productive, effective, and fair way to solve our National energy problem.

I oppose this new tax because it would raise consumer costs—the tax would add 0.5 percent to 1 percent to the Consumer Price Index. The Government would not be able to insure that the oil import fee will be passed on to gasoline only—so the cost of home heating oil may rise as well. And it would add to the already stifling tax burden on Americans—the American taxpayer would have to pay $90 billion more in gas taxes over the next 5 years alone.

Even worse, the tax would not discourage the import of OPEC oil, since importers would be reimbursed through the entitlements system. Instead, since the tax would fall on gasoline refiners, gasoline production would be discouraged. Refiners could avoid paying the fee by switching production from gasoline to diesel fuel and other products. Though the ability of refiners to switch is limited, the new tax would definitely encourage them to do so. And that would only increase the likelihood of tight gasoline supplies and gasoline lines this summer.

In reality, this tax has nothing to do with energy conservation—it is a billion dollar revenue measure in disguise.

I urge my colleagues to join me in rejecting this unnecessary new tax, a tax I have been actively opposing since last December. In fact, I have always opposed higher taxes on consumers. As a cosponsor of three resolutions in opposition to this oil import fee, I ask that you do all you can to kill the gas tax once and for all, and at the very least, join me in cosponsoring House Joint Resolution 531, the oil import fee resolution of disapproval.

At this time, I would like to share with my colleagues an enlightened Wall Street Journal editorial, which outlines only a few of the dangers of this ill-conceived revenue scheme:

OIL FLIP-FLOP

Throughout the Carter administration, and even before, one of the principal objectives of national energy policy has been trying to get rid of the entitlements system, a regulatory nightmare under which refiners of domestic oil subsidize refiners of imported oil. Now, however, the administration is proposing a new entitlements program, superimposed on the old one.

We got into the entitlements mess because the U.S. government was determined to hold the price of U.S. oil below the world price. This meant that refiners of domestic crude would have a cost advantage over refiners of imported crude. To make things "fair," the government required refiners of domestic crude to pay an entitlement for the right to refine oil. This payment was then transferred to the refiner who had to pay OPEC prices.

You don't need entitlements, or the bureaucracy that administers them, if there is only one price of oil. So a year ago the President accepted decontrol; his backers cited the advantage of ending entitlements. The "windfall profits" tax, you remember, was supposed to substitute for them. But the President stretched decontrol out into 1981 on the grounds that the price at the pump should be allowed to rise only slowly.

Now, in another of the flip-flops that have marked his administration, the President wants the price of gasoline to go up fast.

But instead of speeding decontrol, he has imposed an oil import fee and directed that all of its price effects must be passed through on the part of the barrel made into gasoline. The fee once again creates a two-price oil market, and market forces may not dictate the pass-through solely on gasoline. To deal with these problems, the White House has put forth, guess what? Yes, a brand new, sparkling entitlements system.

Under this scheme, refiners would have to obtain entitlements to refine gasoline. The proceeds would be used to reimburse importers of oil for the $4.62 oil import fee collected by the Treasury. All the bizarre results of this new regulatory nightmare cannot be known in advance, if indeed the detailed regulations to implement it can ever be written. But the broad outline is as follows:

The effect will not be to discourage imports of OPEC oil, since importers will be reimbursed for the fee. Rather, since the tax will fall on gasoline refiners, the effect will be to discourage the production of gasoline. Refiners can avoid paying entitlements to the extent that they can switch production from gasoline to diesel fuel and other products. There are limits to the switching that is possible, of course, but the incentive definitely exists for the refiners to move away from the production of gasoline.

Hoping to reduce our dependence on OPEC oil, the President set out to lower the demand for gasoline by raising its price with a tax. But in the process he gave refiners an incentive to reduce the supply of gasoline, increasing the likelihood of supply tightness and gasoline lines this summer.

At the same time, he has reversed the thrust of decontrol and clamped the oil industry tighter into the regulatory vise. How the $4.62 import fee translates into an entitlement for gasoline depends on the quantities of oil imported and gasoline refined. Since this relationship is constantly shifting, and since the program itself contains incentives that affect it, the DOE bureaucrats will have years of work ahead trying to keep everything straight.

It's hard to explain a foul-up of this magnitude. If the government that believes in the windfall profits tax is after more revenues and a higher gasoline price to reduce demand for gasoline, it could simply proceed faster with crude oil decontrol. The higher price in the market would discourage demand and also produce more oil company revenues subject to both the windfall profits tax and the corporate income tax. This approach would avoid both an incentive to produce less gasoline and a new layer of regulation.

The consequences of the oil import fee are a good indication of the way things work when regulations take over from the market. It also shows that regulators faced with being phased out are very good at phasing themselves back in. It would be wonderful indeed if somehow all this bureacratic resourcefulness could be channeled into the production of energy.●

PUT VOLUNTARY PRAYERS BACK IN SCHOOLS

HON. WAYNE GRISHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. GRISHAM. Mr. Speaker, on May 20, 1980, I participated in a gathering at the Capitol of religious leaders from across the Nation and several Members of Congress on behalf of National Prayer Week. The purpose of this meeting was to focus attention on a nationwide movement to put voluntary prayers back in the public schools.

I believe the issue is rather basic. Do we, as American citizens, with all the rights and freedoms that are granted under our Constitution, have that one right to bow our heads in prayer during schools hours?

I believe we do.

I do not believe that the Founding Fathers ever endorsed a concept that would so resoundingly restrict the freedom of any American.

Yet, in 1962, five Justices of the Supreme Court declared prayers in public schools illegal.

I believe that it is my responsibility to do everything I possibly can to insure that our constitutional freedoms are protected.

Discharge petition No. 7 is an extreme. Such a legislative move strips away congressional ability to hold hearings; it strips away congressional authority to amend the bill; and it limits discussion on the bill among the 435 Members of the House. But when one individual can stop a bill that so many Americans adamantly desire, then it is time for an extreme.

If this is the only way to get this bill onto the floor of the House of Representatives, then it is my duty to sign the petition. The American people must be permitted to work their will—in their communities.●

THE SUMMER OF OUR DISCONTENT

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. TAUKE. Mr. Speaker, now is the summer of our discontent. I do not believe that William Shakespeare would mind this loose paraphrase of his line. As we embark upon this summer of 1980, the American farmer is faced with an extremely severe situation. Interest rates are unbearably high; the administration continues to pursue a "cheap-food" policy; inflation is eating up what little profits there are. All these problems and many more have been enumerated on this floor many times over, but unfortunately they still remain. I believe that the attached poem by Randy and Beth Shaull, residents of the Second District of Iowa, clearly states the former's feeling of desperation. I believe that we must take action immediately.

WHY PRODUCE?

Here we are in the month of April,
We're suppose to produce but are we able,
Prices are down, costs are up,
Should we continue our farming or should we give up?

Hogs aren't pocketing
But taxes are rocketing.
Cattle are lowering
With interest rates soaring.

Corn and bean prices far from enticing;
Seed, fertilizer, chemicals always keep rising.

Income continues to be in the red,
Machinery and fuel costs way over our head.

So here we sit wondering, is it worth it or not,
While the government keeps fumbling and depleting their pot.

If farmers fail to produce just one year
The prices you pay will become so dear.

The world will be hungry in such a short time,
All the oil and gold won't be worth a dime.

Get the government officials off our backs
So we can operate our farms at least in the black.

Monitor the marketing to make it fair
So everyone gets an equal share.

Put the railroads back in, should be our mission,
To keep Opec nations from collecting commission.

Inflation is caused by government spending
On programs and laws that just are not rendering.

Save our resources so not to deplete,
Because future generations will have to eat.

Thank you for listening to what I've said,
I hope you will help us get out of the red.

All that we ask is to have our chance
To produce this world's needed food plants.

STANWOOD, IOWA.

DEAR MR. TAUKE: We felt compelled to write this poem because of the high costs that we pay and low prices we receive.

There are a lot of newspaper articles and TV and radio news coverage on this topic, and what an important topic it is!

We felt that we summarized the plights of America in this poem and would appreciate your help to get the message to this great nation.

We are sending a copy of this poem to all of our presidential candidates and will be interested in their responses and yours.

"The farmer is the only businessman in the world where we take what we're offered when selling and give what we have to give when buying."

Thank you for your attention.

RANDY AND BETH SHAULL.●

CONGRATULATIONS TO MAYOR E. L. "LES" BALMER OF EL SEGUNDO FOR A JOB WELL DONE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. DORNAN. Mr. Speaker, for the past 8 years, the city of El Segundo, Calif., has enjoyed the dedicated and responsible leadership of Mayor E. L. "Les" Balmer. With the announcement of Mayor Balmer's retirement, the citizens of this beautiful beach community can certainly reflect on the great contributions made by this outstanding leader.

A former superintendent with the Chevron El Segundo plant with 25

years of service, Mayor Balmer has served the area in many capacities. Among the positions to which he has given great time and effort are director and vice president of West Basin Municipal Water District, director of Metropolitan Water District, representative to the Southern California Association of Governments, member of the Housing Advisory Steering Committee, and member of the Kiwanis Club of El Segundo.

After holding a position on the planning commission, Mr. Balmer first won a seat on the city council in 1948. In 1972, Councilman Balmer became Mayor Balmer and began an administration noted for its achievements and sound policy.

Mr. Speaker, it is with great pleasure that I salute Mayor Les Balmer and wish him continued success in his future activities.●

RAILROAD PASSENGER SERVICE DAY—MAY 24

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mrs. BYRON. Mr. Speaker, I take great pleasure in joining with Senator CHARLES MCC. MATHIAS in commemorating the initiation of railroad passenger service by offering a resolution to designate May 24, 1980, as "Railroad Passenger Service Day." Historic Ellicott City, Inc., a private, nonprofit organization, in conjunction with the county executive of Howard County is planning a celebration of the sesquicentennial of that event to mark the occasion.

Although it was a revolutionary notion on May 24, 1830, when the first scheduled passenger train spanned the 13 miles from Baltimore to Ellicott City, Md., rail travel to date has been one of America's most enduring methods of transportation. Arriving at what is now the Ellicott City B. & O. Railroad Station Museum, the first passenger train powered by steam locomotive set an early precedent for today's modern rail transport. It was there that a new industry was founded, giving rise to increased commercial activity for growing cities like Baltimore with the establishment of the Baltimore & Ohio Railroad Co.

By enhancing the accessibility as well as the industrial power of America's founding cities, the railroad system served to unite and diversify our developing Nation. Time and effort which once restricted travel were lessened significantly, allowing greater mobility to the previously unexplored sites of industrial activity. Our Nation grew with the aid of this cohesive network of expansion, and it seems fitting that train travel is enjoying a revival in this era of mass transportation and expensive and scarce energy.

On May 24 the community, State, and Nation are invited to join in Ellicott City for the sesquicentennial, and I can think of no better way to commemorate the initiation of the passenger train as a great institution in the history of America.

A joint resolution follows:

H.J. RES. —

A joint resolution to authorize and request the President to designate May 24, 1980 as "Railroad Passenger Services Day".

Whereas, the United States of America has prospered largely due to the creativity of its industrial minds;

Whereas, inventive thinkers have contributed greatly to the growth of the United States through accomplishments in the area of transportation;

Whereas, the first paying passenger on the first commercially successful railroad in the United States arrived at the first terminus in the village of Ellicott City, Howard County, Maryland (then known as Ellicott's Mill), on May 24, 1830;

Whereas, this terminus, the oldest rail depot in the United States has been designated by the United States Department of the Interior as a registered historic landmark and now houses the Ellicott City B. & O. Railroad Station Museum; and

Whereas, on May 24, 1980 a celebration will recognize the sesquicentennial of such achievement: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate May 24, 1980, as "Railroad Passenger Services Day", as a tribute to the citizens and civic leaders responsible for the preservation of this historic railroad station as well as the historic town of Ellicott City, and to call upon Federal, State, and local government agencies and the people of the United States to observe such anniversary of the sesquicentennial with appropriate ceremonies, programs and activities.●

IN THE MATTER OF REPRESENTATIVE CHARLES H. WILSON

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. BENNETT. Mr. Speaker, I ask unanimous consent to include in the Extensions of Remarks the following Dear Colleague letter:

DEAR COLLEAGUE: To assist you in understanding the material relevant to the proceedings *In The Matter of Representative Charles H. Wilson,* the Counts which the Committee found to be proved, the text of the House Rules violated, and the testimony and documentary evidence supporting the findings are as follows:

COUNT 1

On or about June 1, 1971, the Respondent, Charles H. Wilson, conducted himself in a manner which did not reflect creditably on the United States House of Representatives in violation of clause 1 of the Code of Official Conduct, Rule XLIII, the Rules of the House of Representatives, and also violated clause 4 of the Code of Official Conduct of the House of Representatives, Rule XLIII, the Rules of the House of Representatives, in that he accepted a gift, to wit, $5,000.00 from a person, Lee Rogers, having a direct interest in legislation before the Congress.

HOUSE RULE XLIII, CLAUSE 1

A Member, officer, or employee of the House of Representatives, shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives.

HOUSE RULE XLIII, CLAUSE 4 (AS IN EFFECT AT THE RELEVANT TIMES)

A Member, officer, or employee of the House of Representatives shall accept no gift of substantial value, directly or indirectly, from any person, organization, or corporation having a direct interest in legislation before the Congress.

As to Count 1, a $5,000 check marked "loan" from Lee Rogers to Rep. Wilson is Exhibit 1 on page 224 of the House Report 96-930. Representative Wilson's 1977 Financial Disclosure Statement, with no mention of any debts owed Rogers, is Exhibit 2 on page 240. Testimony of Mr. Rogers that there was no note, no interest, no demand for repayment and no repayment is on page 174.

On page 191 is the testimony of Lee Rogers of his interest in postal legislation. On page 205 is the testimony of George Gould relating to Rogers' interest in legislation. Exhibits 15(a)-(d) on pages 329-337 are reprints of correspondence and legislation detailing a direct interest of Lee Rogers in legislation.

COUNT 2

On or about June 20, 1972, the Respondent, Charles H. Wilson, conducted himself in a manner which did not reflect creditably on the United States House of Representatives in violation of clause 1 of the Code of Official Conduct, Rule XLIII, the Rules of the House of Representatives, and also violated clause 4 of the Code of Official Conduct of the House of Representatives, Rule XLIII, the Rules of the House of Representatives, in that he accepted a gift, to wit, $5,000.00, from a person, Lee Rogers, having a direct interest in legislation before the Congress.

(The text of House Rule XLIII, clauses 1 and 4 are quoted above)

For the direct interest of Lee Rogers in legislation, see Count 1. Exhibit 2 on page 225 is a $5,000 check marked "loan" from Rogers to Rep. Wilson. On page 175, Rogers testifies that there was no note, no interest, no maturity date, no demand for repayment and no repayment. The Member's Financial Disclosure Statement on page 240 shows no debt owed Rogers.

COUNT 3

On or about December 11, 1972, the Respondent, Charles H. Wilson, conducted himself in a manner which did not reflect creditably on the United States House of Representatives in violation of clause 1 of the Code of Official Conduct, Rule XLIII, the Rules of the House of Representatives, and also violated clause 4 of the Code of Official Conduct of the House of Representatives, Rule XLIII, the Rules of the House of Representative, in that he accepted a gift, to wit, $500.00, from a person, Lee Rogers, having a direct interest in legislation before the Congress.

(The text of House Rule XLIII, clauses 1 and 4 are quoted above)

For the direct interest of Lee Rogers in legislation, see Count 1. Exhibit 3 on page 226 is a $500 check from Lee Rogers to Rep. Wilson, endorsed by Rep. Wilson over to his son. On page 176, Rogers testifies that he did not recall the purpose of the check.

COUNT 7

Commencing on or about March 3, 1971,

the Respondent, Charles H. Wilson, did violate clause 6 of the Code of Official Conduct of the House of Representatives, Rule XLIII, the Rules of the House of Representatives, in that the Respondent did convert $10,283.35 of campaign funds to his personal use and did fail to keep his campaign funds separate from his personal funds.

HOUSE RULE XLIII, CLAUSE 6 (AS IN EFFECT AT THE RELEVANT TIMES)

A Member of the House of Representatives shall keep his campaign funds separate from his personal funds. He shall convert no campaign funds to personal use in excess of reimbursement for legitimate and verifiable prior campaign expenditures. He shall expend no funds from his campaign account not attributable to bona fide campaign purposes.

Testimony of GAO accountant, Frank Chlan, detailing the transfer of funds from Rep. Wilson's Campaign Account to his Office Account and then from the Office Account to the Imperial Bank for repayment of a personal loan is on pages 134-136. Copies of bank ledger sheets and loan documents detailing these transactions are Exhibits 7(a)-7(e) on pages 243-251. Exhibit 7(c), page 247, is the bank's loan approval and credit report, indicating the purpose of the loan as "personal expense". A chart on page 7 summarizes the flow of funds relating to this Count. No evidence was offered which proved that this was a campaign expense reimbursement.

COUNT 8

Commencing on or about March 15, 1971, the Respondent, Charles H. Wilson, did violate clause 6 of the Code of Official Conduct of the House of Representatives, Rule XLIII, the Rules of the House of Representatives, in that the Respondent did convert $5,129.85 of campaign funds to his personal use and did fail to keep his campaign funds separate from his personal funds.

(The text of House Rule XLIII, clause 6 is quoted above)

Testimony of GAO accountant, Frank Chlan, detailing the transfer of funds from Rep. Wilson's Campaign Account to his Office Account and then from the Office Account to the Security Pacific National Bank, Culver City Branch, for repayment of a personal loan is on pages 136-138. Copies of bank ledger sheets, checks and loan records detailing these transactions are Exhibits 8(a)-8(e) on pages 252-257. Exhibit 8(d) on page 256, the Security Pacific National Bank report of the loan made to Rep. Wilson shows the purpose of the loan as "personal expenses". A chart on page 8 summarizes the flow of funds relating to this Count. No evidence was offered that this was a campaign expense reimbursement.

COUNT 9

Commencing on or about November 23, 1971, the Respondent, Charles H. Wilson, did violate clause 6 of the code of Official Conduct of the House of Representatives, Rule XLIII, the Rules of the House of Representatives, in that the Respondent did convert $3,047.91 of campaign funds to his personal use and did fail to keep his campaign funds separate from his personal funds.

(The text of House Rule XLIII, clause 6 is quoted above)

Testimony of GAO accountant, Frank Chlan, detailing the transfer of funds from Rep. Wilson's Campaign Account, to his Office Account and then from the Office Account to the Security Pacific National Bank, Culver City Branch, for repayment of a personal loan is on pages 138-140. Copies of bank ledger sheets, checks, and loan records detailing these transactions are Exhibits 9(a)-9(g) on pages 258-264. Exhibit 9(e) on page 262, is a report of the loan made by Security Pacific National Bank to Charles H. Wilson for "personal expenses". A chart on page 9 summarizes the flow of funds relating to this Count. No evidence was offered which proved that this was a campaign expense reimbursement.

COUNT 10

Commencing on or about November 29, 1971, the Respondent Charles H. Wilson, did violate clause 6 of the Code of Official Conduct of the House of Representatives, Rule XLIII, the Rules of the House of Representatives, in that the Respondent did convert $3,500.00 of campaign funds to his personal use and did fail to keep his campaign funds separate from his personal funds.

(The text of House Rule XLIII, clause 6 is quoted above)

Testimony of GAO accountant, Frank Chlan, detailing the transfer of funds from Rep. Wilson's Campaign Account to his Office Account, and then from the Office Account to Rep. Wilson's Sergeant at Arms account is on pages 140-142. Copies of bank ledger sheets, checks, deposit tickets and statements of account are Exhibits 10(a)-10(g) on pages 265-275. The chart on page 10 summarizes the documentary evidence in the exhibits and shows a balance of $886.64 prior to a $3,500 deposit, with outstanding checks in the amount of $3,045. Exhibit 10(g) on pages 272-275 contains copies of checks drawn on Rep. Wilson's personal account. No evidence was offered to show that the $3,500 from the Campaign Account was for reimbursement of campaign expenses.

COUNT 11

Commencing on or about November 1, 1971, the Respondent Charles H. Wilson, did violate clause 6 of the Code of Official Conduct of the House of Representatives, Rule XLIII, the Rules of the House of Representatives, in that the Respondent did convert $3,000.00 of campaign funds to his personal use and did fail to keep his campaign funds separate from his personal funds.

(The text of House Rule XLIII, clause 6 is quoted above.)

Testimony of GAO accountant, Frank Chlan, detailing the transfer of funds from Rep. Wilson's Campaign Account directly to Rep. Wilson's Sergeant at Arms account is on pages 142-144. Copies of bank ledger sheets, checks, deposit tickets, and statements of account are Exhibits 11(a)-11(g) on pages 276-292. The chart on page 10 summarizes the documentary evidence in the exhibits and shows a balance of $381.14 prior to the $3,000 deposit from the campaign fund account, and outstanding checks totalling $2,004.25. Exhibit 11(f) on pages 282-292 contains a list and copies of checks drawn on Rep. Wilson's personal account. No evidence was offered to show that the $3,000 from the campaign account was for reimbursement of campaign expenses.

Sincerely,

CHARLES E. BENNETT,
Chairman of Committee on Standards of Official Conduct.

GHOTBZADEH'S LIST OF FIRMS WILL NOT INCLUDE KOHLER GENERAL

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. PETRI. Mr. Speaker, in today's Washington Post, a page 1 story includes a disheartening report that Foreign Minister Ghotbzadeh yesterday claimed that 1,200 American firms have contacted Tehran to see how they can continue to do business with Iran despite the U.S.-led economic boycott.

I doubt that 1,200 American businesses have made such an inquiry, and if I am wrong, I strongly doubt that such a query came without solicitation from Tehran.

By coincidence, this weekend, while Ghotbzadeh was bragging to a conference of the foreign ministers of 38 Islamic states and the Palestine Liberation Organization about these so-called inquiries from America, I just happened to receive an exchange of correspondence on this very subject. For the enlightenment of my colleagues and other readers of the CONGRESSIONAL RECORD, I am including the full text of this exchange, as part of my remarks.

The correspondence was initiated by a self-described government affiliate in Tehran. The letter sought the business of Kohler General, a small manufacturer in Wisconsin's sixth district. I am proud to say that Tehran's solicitation—dated April 16, 1980—was declined by the officers of Kohler General in the most plain, forceful, and uplifting terms I have read in ages.

In his firm's response, Dave Wecker, sales manager, wrote:

I would sooner plant seeds in the ground, hunt from the land, and fish from our rivers and streams to exist on this earth than to do a nickel's worth of business with Iran.

His letter was signed by all of the officers and office workers of Kohler General, a group of people I am very proud to represent. I would be interested to know if Kohler General's letter to Tehran is in any way counted among Mr. Ghotbzadeh's communications from America. I am confident it speaks for the vast majority of our business community. The full exchange follows:

MAZANDARAN WOOD & PAPER INDUSTRIES, INC.,
April 16, 1980.

JENKINS SCHELLING,
Kohler General Corp.,
Sheboygan Falls, Wis.

GENTLEMEN: We are introducing ourselves as a government affiliated company responsible for constructing and operating a Pulp and Paper Mill as well as a Mechanical Wood Industries Complex in Northern Iran.

The Mazandaran Forest Products Complex is scheduled to be on-line for operation in 1983.

This complex will produce the following paper products: newsprint and mechanical writing and printing paper (90,000 tons/Yr), folding boxboard (44,000 tons/Yr) and corrugating medium (85,000 tons/Yr).

Wood Products to be manufactured in this complex are: plywood (15,000 to 23,000 m^3/Yr); particleboard (120,000 to 150,000 m^3/Yr); and lumber (90,000 to 120,000 m^3/Yr).

We would like to receive your latest equipment catalogs and accompanying price list, if possible, for the following areas: Sawmill; Plywood Mill; Particleboard Mill; Pulp Mill; and Paper Mill.

We appreciate your assistance in supplying us with the above material.

Yours truly

DR. R. PEDRAM,
Operations Manager.

KOHLER GENERAL,
Sheboygan Falls, Wis., May 6, 1980.
Re your inquiry dated April 16, 1980.
Mr. R. PEDRAM,
Operations Manager, Mazandaran Wood & Paper Industries, Inc., 8 Zartosht Avenue, Pahlavi Tehran, P.O. Box 41/911, Iran.

MR. PEDRAM: Thank you for your inquiry about equipment we manufacture for the plywood and particleboard industries. We build the finest equipment in the world for sawing wood products.

I appreciate your inquiry because it gives me an opportunity to personally tell you why we will not honor your request for a quotation.

First of all the thoughts I am writing to you are shared by virtually everyone I am in contact with at home, in the office, and wherever I travel in the United States of America. I would sooner plant seeds in the ground, hunt from the land, and fish from our rivers and streams to exist on this earth than to do a nickel's worth of business with Iran.

How can you expect the rest of the world to understand what your problems are when the people of Iran do not understand what they are? We know that some real problems exist (everyone has certainly heard this message, as redundant as it is by now). You, as a country, demonstrated that your problems go much deeper than the reign of the Shah and all that happened during that reign. Is there no recorded history in Iran before the time of the deposed Shah? People have existed on the land for centuries before then, but yet we, the United States, are the root of all your evils? I do not believe this is the case.

The question I ask myself and must ask you now is "why"? What is the purpose of the irrational behavior of the Iranian people? There is no country on this earth that could or would comply with the ridiculous demands you have made of the United States. The question that concerns me, as a United States Citizen, is how to deal with a group of fanatical, disorganized people. I guess time will tell.

Whatever you believe or hear about the United States, just remember that we are a united people speaking through the President of the United States. What you have been subjecting us to is beyond all comprehension.

I am sure you do not understand us because if you did, you would not have sent a letter asking a United States company to share our resources with you in this time of crisis.

No, Mr. Pedram, we are not interested in submitting a quotation.

Most sincerely,

Dave Wecker, Sales Manager, Jenkins Machinery Division; Peter G. Kohler, President; J. Curtis McKay, V. Pres.; Betty Fischer; Peter J. Menné; Mark Sprunger; Martin Nemitz; R. B. Lahti; E. H. Strowig; George H. Schroeder; Gunther Griebel; Gerald J. Ziegler; Robert Greene; Mary Ten Haken; Cathy Ballmer; Duane Linn; Erika M. Awe; Roger J. Scheuren; William L. May; Burton Tempas; James Sloma; Bruce Vogel; Richard Petermann; Clifford J. Cottrill; Robert Rooker; Al Kovacic; Wendell Vallee, V. Pres.; Ginny Alfonsi; Mike Speckmann; Lambert G. Ebbers; Laura Coleman; Mary A. Mueller; Arlene Depies; Joe Mauer; A. O. Sprosty, Treas.; Cindy Adam; Marvin Van Sluys; and Walter Kohler, Sr. V. Pres.●

CALIFORNIA'S PROPOSITION 9 TO CUT INCOME TAX RATES: STATE OF THE EXPERIMENT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. KEMP. Mr. Speaker, there are a handful of contemporary American experiments in cutting tax rates to increase economic incentives, and all have proven successful. Proposition 13 in California, the Steiger-Hansen reduction in capital gains tax rates, and the reduction of marginal income tax rates in Puerto Rico—in each case, the opponents who predicted disaster and deficits have been confounded by the results.

After proposition 13, employment, growth of personal income, and State budget surpluses in California have all increased beyond predictions. The cut in the Federal capital gains tax rates has unlocked large unrealized capital gains for productive reinvestment and, incidentally, for taxation. And the Puerto Rican tax rate reductions are credited with the island's economic and budgetary turnaround.

The boldest proposal so far—a 50-percent reduction in California's State income tax rates—is potentially the most powerful of these measures, and it would be a valuable guide for our national decision on whether and how much to cut Federal income tax rates on all Americans. According to the polls, the outcome of the referendum is in doubt; yet if experience is any guide, proposition 9, as it is known, might succeed in cushioning California and even the rest of the country from the worst of the current recession.

Yesterday, the Wall Street Journal editorialized in favor of proposition 9. I, too, support proposition 9, because I believe it would prove beyond doubt the compelling case for cutting marginal income tax rates to restore incentives for work and saving, and to reduce the bias of our tax system in favor of leisure and consumption. I only regret the fact that my own New York State does not have an initiative process which would allow voters to decide such matters of importance. I commend this excellent article to my colleagues:

STATE OF THE EXPERIMENT

Never mind the presidential primaries. The most important national political drama this month is the dogfight over California's Proposition 9. This measure, also called Jarvis II or Jaws II depending on your viewpoint, would cut the state's personal income tax rates by 50 percent. It is the logical next step in the state's three-year experiment in reversing its tax burden, an experiment, forced entirely by the voters, which has become the cutting edge of the new economic thinking.

But recession is yawning before us, the proposed rate cuts seem drastic, and the California public hesitates to push the experiment forward in perilous times on the sole word of curmudgeonly Howard Jarvis. Polls show that support for Proposition 9 is rapidly eroding. If the measure fails, will this be the end of the "Tax Revolt"?

Certainly the "Eastern press" will say so. State and federal budget interest groups will sigh in relief and try to pick up where they left off. Even Ronald Reagan may be tempted to moderate his "supply-side economics" by drawing the line at Proposition 9. (As a registered Californian, he is constantly being asked how he'll vote on it.) But don't be misled by any apparent repudiation of Proposition 9. Very few Californians think they made a mistake in their two-to-one vote for Proposition 13 in 1978 or their two and a half-to-one vote for the Gann spending limits in 1979. They want not to end their movement but to make it responsible and established. They don't yet realize that they can do so and still pass Proposition 9.

This rate cut is the soundest of the three Jarvis or Gann propositions. Even before Proposition 13 corrected the serious distortion in the local property tax, the state income tax structure was an equally serious problem. Governor Reagan's compromises with the state legislature in the late '60s gave the state probably the most progressive income tax in the country, and certainly the most compacted brackets. Other states may have higher top rates than California's 11 percent but almost none come in at such a low income level. (Delaware's 19.9 percent doesn't apply until an individual income tops $100,000.) Even with a two-year-old indexing bill, the top individual bracket on April 15 started at $17,425, and the brackets below it were only $3,360 wide.

The result has been an absolutely awesome money machine, which the state is still unable to turn off. Before indexing, according to the state legislative analyst, a 20 percent increase in inflation would produce a 40 percent increase in income tax revenue. Even with indexing, the projected current year collection of $6.3 billion runs 34 percent above two years ago, and the actual collections are exceeding the projection. With this inflation-driven engine running nearly unbraked, the past Jarvis and Gann initiatives have scarcely dented the growth in the state spending. The true picture emerges in comparing proposed budget to proposed budget: This year's $24 billion request is a cool 21 percent above last year's.

We can't really blame the Brown administration for wanting to keep this money machine intact. It worries about the future when it may have exhausted its multi-billion dollar surplus, and these days Governor Brown is fascinated by an especially pessimistic "long-wave" brand of economics. His finance department projects a slowing revenue growth next year leaving a final deficit of $1.4 billion which would use up most of the accumulated surplus. It assumes a state economy only slightly outperforming the nation's, with the first decline in real personal income in the post-war years.

But if Governor Brown and his finance staff are right, then most of what we've learned about state economics in recent years is wrong. An important Harris Bank of Chicago study comparing the actual experience of 49 states has found a very strong relation between the downward change in state tax burdens and the growth in their total personal incomes. In example after example, we've seen states grow by shrinking their tax rates while their higher tax neighbors stagnate. California has

dropped its tax burden sharply through Proposition 13, so why doesn't it too reap the reward?

The answer is that it has been and will. The Department of Finance projections, in spite of its ability, are far too low. Forecasts from four major state banks average out at well above its prediction for personal income growth. (Ironically the only projection consistently more pessimistic than the state's, a UCLA study, also predicts that Prop 9 will cost only a quarter of the state revenue loss that the state says it will.) Bank of America expects that next year California, with 10 percent of the nation's population, will create 20 percent of the nation's new jobs.

Such apparently technical disputes translate into political bombshells. The most politically sensitive number in the state is the size of the surplus. Nothing hurt state government's credibility more in the Proposition 13 campaign than the way this number constantly shifted (often for perfectly legitimate reasons). We're at it again. A year ago, the budget predicted a June 30, 1980, current surplus of some $400 million. This year's budget raised that figure on that date to $1.8 billion. A rival forecasting commission headed by the governor's bipartisan opposition now is talking about $2.6 billion and up. And the well informed research unit of a major bank, neutral on 9, has arrived internally at a figure of $3.5 billion.

This year and next the state can easily afford the Prop 9 tax cut. The net $4.7 billion loss from the cut predicted by the finance department is overly pessimistic, and it can easily be held still lower by legislative action. Even if Proposition 9 forced a 7 percent cut in state spending, as UCLA has projected, this wouldn't hurt badly. The real benefits will come as the state emerges from the recession. We know for sure that raising taxes stifles recoveries; New York used to do very well in recessions until it piled on taxes in the '60s. Then it never really came back from the 1969 bust. In the 1976 comeback, the declining-tax-burden states did best.

Serious points can still be made against Prop 9. We're not comfortable with the practice of sealing tax rates into a constitution. But the "No on 9" campaign is falling into the same heavy-handed excess that helped pass Prop 13.

It calls this measure a "rich-man's tax cut," a totally dishonest charge. Of course half of $1,000 is more than half of $200, but because Prop 9 leaves intact a series of tax credits it actually makes the tax structure more progressive. Before Prop 9, couples earning over $50,000 paid 37.6 percent of the state income tax take; if it passes they will pay 41 percent. But class-baiting rhetoric has become the keynote of the "No on 9" Committee, a front for the municipal unions, and the reputable economists who've tacitly lent it their names ought to rethink their situation.

Legislative leaders are trying to coerce business into opposing 9, by making probusiness tax bills carry expiration clauses if 9 passes. The Democratic majority in the state senate recently killed a bill supported by Mr. Jarvis that would have cut the first-year impact of 9 in half; you had remarkable liberal support for the harshest possible tax cut, just to scare the voters.

These tactics may work, this time around. But as the new economic figures come in, and they will within days, the voters may realize that their first instincts were best and that the vested budget interests have pulled a con.

Of course we don't want to be too harsh on some of 9's opponents. We would share their worry about manic tax cutting without regard to the consequences. Conceivably government services can be cut to a point that hurts the economy. But that point, we think, is far lower than most Americans realize. It is certainly far lower than California, with its robust economy and elaborate infrastructure, would reach even after 9. If 9 does fail, don't think for a minute the Tax Revolt is off. When Californians awake to the true power of the state money machine, we'll be seeing "Jaws III" with a vengeance.●

OSHA'S HEALTH REGULATIONS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 1980

● Mr. DORNAN. Mr. Speaker, I wish to call to the attention of the House an excellent study recently completed by Louis J. Cordia, environmental policy analyst for the Heritage Foundation.

The study, entitled "OSHA and Environmental Health," finds the Occupational Safety and Health Administration ignoring important scientific and economic information in formulating a comprehensive cancer-prevention policy. The proposal effects more than just the workplace, and this controversial multibillion dollar regulatory scheme will more than likely be adopted by the four other agencies which regulate the air, water, food, drugs, and consumer products.

Of particular interest, the report points out that the policy responds to an epidemic of occupationally regulated cancer that is fallacious and ambiguous. This timely study follows:

OSHA AND ENVIRONMENTAL HEALTH

INTRODUCTION

The 1970s produced an onslaught of environmental laws aimed at eliminating or controlling contaminants believed to harm human health as well as other life forms on earth. More than 25 major statutes were enacted. Concomitantly, in the last decade, the federal government began to pay great attention to cancer, the second leading cause of death in the United States, which inadvertently had been linked to environmental causes. The man who established the relationship between the dread disease and the environment was Dr. John Higginson, director of the World Health Organization's International Agency for Research on Cancer. His widely-publicized findings, which estimated that 80-90 percent of all cancers are due to environmental factors, were seriously misinterpreted—for Higginson used the word "environment" to mean all external factors which affect a person (including such personal habits as cigarette smoking, poor nutrition, and excessive alcohol consumption).

However, given the tremendous apprehension caused by cancer and its profound uncertainties, it is no surprise that the disease has attracted the attention of the federal government. Cancer is a terrible disease and a pressing problem, debilitating and often irreversible. It starts in a single cell and, unless checked early, slowly spreads until it brings a painful, prolonged death. One in four people contracts it and only one in three survives. In 1980; over 400,000 people are expected to die—about 1,100 a day or one every minute and a half.

In the 1971 State of the Union message, then-President Nixon first declared war on cancer. That same year, Congress passed the National Cancer Act whose appropriation of a few hundred million dollars has soared to over $1 billion for the National Cancer Institute—the largest expenditure ever aimed at curing a disease.

With a cure elusive, President Carter has shifted the government focus to protection of public health through prevention of the disease. In his environmental message to Congress in May 1977, he asserted, "Rather than coping with hazardous substances after they have escaped into our environment, our primary objective must be to prevent them from entering the environment at all!" The same year, the Occupational Safety and Health Administration (OSHA) transmitted for review and comment a draft of a proposed cancer policy to deal with exposure of workers to possible carcinogens.

OSHA recently issued its far-reaching and controversial final cancer policy. Seeking to identify, classify and regulate cancer-causing substances that could pose chronic health hazards to workers, the agency has chosen to rely heavily on animal tests for assessing carcinogenicity in humans and has failed to use risk assessment to determine the level of exposure to workers in the workplace. These two questions were the central issues debated each time suspected carcinogens were proposed for regulation. Guidelines will be such now that according to Eula Bingham, assistant Secretary of Labor for OSHA, "we won't have to reinvent the wheel every time we attempt to regulate a potential carcinogen."

Essentially, the OSHA regulations set a comprehensive national cancer policy. The magnitude of the cancer policy is much greater than the effects it has in the workplace for it will affect the air, the water, food, drugs, and consumer products, as well as hinting at a direction in which the federal government is going to accommodate environmental health concerns. Four other Federal regulatory agencies which comprise the rest of the Interagency Regulatory Liaison Group (IRLG) set up by President Carter to coordinate regulatory activity most likely will adopt the scientific principles set forth in the OSHA policy, thus making it a government-wide method of regulating carcinogens. Under their respective statutes, OSHA has authority to regulate hazardous substances in the workplace; the Environmental Protection Agency (EPA) can regulate contaminants of the air, water and land; the Consumer Product Safety Commission (CPSC) can regulate products in the marketplace; and the Food and Drug Administration (FDA) along with the Agriculture Department's Food Safety and Quality Services (USDA-FSQS) have had long-standing authority to protect food and drugs.

OSHA'S CANCER POLICY PROVISIONS

Announced January 16, 1980, the Occupational Safety and Health Administration's final cancer policy fills nearly 300 pages in the January 22 *Federal Register*. It differs in some significant respects from the initial proposal of October 1977 as a result of extensive public participation at hearings whose transcript exceeds a quarter of a million pages. The rules are set to go into effect April 22, if they survive the legal challenges against them.

The main changes were two concessions to industry. Emergency temporary standards will not automatically be issued for Category I Potential Carcinogens as was originally

proposed. Instead, they can only be set when deemed appropriate. Secondly, recognizing that methods for determining carcinogencity are not yet conclusive, OSHA now permits greater flexibility by allowing petitions to the agency based on "substantial new evidence or issues" and by calling for review of past actions or even the entire cancer policy every three years in light of any significant scientific and technical advances.

More specifically, the provisions define a potential occupational carcinogen as—

Any substance or combination or mixture of substances which cause an increased incidence of benign and/or malignant neoplasms (tumors) or a substantial decrease in the latency period between exposure and onset of neoplasms in humans or in one or more experimental mammalian species (all warm-blooded quadrupeds) as a result of any oral, respiratory or dermal exposure, or any other exposure which results in the induction of tumors at a site other than the site of administration.

Based on a scientific review of available data, the agency will publish in the *Federal Register*, at least annually, a "candidate list" of suspected carcinogenic substances.

From such lists, the substances may be classifed as Category I Potential Carcinogens if the evidence is relatively conclusive, that is carcinogenic in humans or in a single mammalian species in a long-term bioassay (laboratory determination) where the results are in concordance with other scientifically evaluated evidence. Concordant evidence includes positive results from testing in the same or other species, positive results in short-term tests (on bacteria, yeast or other cell structures), and evidence derived from tumors or injection or implantation sites. A permissible exposure limit for Category I substances will be set "as low as feasible" through engineering and/or work practice controls and will follow guidelines for other protective measures contained in model standards.

The proposal will contain provisions for monitoring, regulating areas, methods of compliance, respiratory protection, protective clothing and equipment, medical surveillance, employee information and training, signs and labels, recordkeeping, and observation of monitoring of employees. Lastly and very importantly, if OSHA decides that there is a safe substitute, then the carcinogen will be banned from the workplace.

Category II Potential Carcinogens will be classified as such if on scientific evaluation the substance meets the criteria for a Category I determination but the evidence is only "suggestive," or based on positive results in a long-term bioassay in a single mammalian test species. Also, the regulatory standards are less stringent for these substances than for the Category I carcinogens.

Category I and II substances will arise out of two "priority lists" to be published at least every six months. Each priority list made up from the candidate list will consist of approximately ten substances for each of the two categories. Some factors that will be considered in selecting the substances on the priority lists include: the estimated number of workers exposed, the estimated levels of human exposure, the levels of exposure that have been reported to cause increased incidence of cancer in humans or animals or both, and the extent to which regulatory action would reduce not only cancer risk but other health hazards as well.

Lastly, to aid in the identification, classification and regulation of any potential occupational carcinogen, OSHA may request at any time that the heads of the three federal health research institutes [National Institute for Occupational Safety and Health (NIOSH), the National Cancer Institute (NCI), and/or the National Institute of Environmental Health Sciences (NIEHS)] convene a scientific review panel.

LEGAL ACTION

Within days after the issuance of the cancer policy, both industry and labor mounted challenges in the courts. Generally, the review of an OSHA standard is heard in a court where the earliest petition has been filed. The American Petroleum Institute was the first group to challenge in petition to the Fifth Circuit Court of Appeals in New Orleans on January 9, 1980. It questions the validity of the scientific methods OSHA uses in determining carcinogens in the workplace. The AFL–CIO filed on January 16 in the District of Columbia Circuit challenging OSHA's removal of the automatic emergency temporary standard provision from the final policy. The American Industrial Health Council followed with a petition in Texas on January 18 charging that the OSHA policy "for the sake of administrative convenience, ignores scientific developments, the tremendous difference in the physical and toxicological characteristics of chemical substances, and the differences in the workplace."

The court decision to have the greatest effect on the future regulatory activities in the occupational, or in general the environmental, health area will be the ruling in the landmark benzene case before the Supreme Court. Expected this year, it squarely addresses the controversial and fundamental question of how much an agency must weigh costs of regulation against its potential benefits. A U.S. Court of Appeals ruled in October 1978 that OSHA cannot legally regulate occupational health hazards without first using cost-benefit analyses "to determine whether the benefits expected from the standard bear a reasonable relationship to the one-half billion dollar price tag." Although many agencies have resisted cost-benefit analyses for health and safety rules on grounds that benefits, such as how many lives may be saved, are often immeasurable, a decision upholding the appellate court ruling would force OSHA and other agencies to measure costs and benefits before issuing regulations like the cancer policy.

No doubt influencing the Supreme Court on the benzene (a petrochemical used in plastics, resins and motor fuels that allegedly induces leukemia) case will be the federal appeals court decision of October 1979 endorsing OSHA's cotton dust standard. The court rejected cost-benefit analyses and supported costly engineering controls of cotton dust in the workplace. OSHA estimates that compliance would require capital expenditures of $550 million but industry figures the cost at about $2 billion. About 600,000 workers are exposed to cotton dust which purportedly results in chronic respiratory problems.

Other legal challenges in recent years involving risk-benefit analysis as it strives to achieve workplace safety wherever it is feasible, not just where it is cheapest, deal with arsenic (emitted into the air from copper, lead and zinc smelters, glass-making plants and certain pesticide producers, and charged with causing lung cancer). vinyl chloride (in many plastic plants and purportedly a cause of liver cancer), acrylonitrile (a substance used to manufacture synthetic fibers and plastic materials that may be carcinogenic), and others such as asbestos, coke-oven emissions, lead, kepone, DDT, and Red Dye #2.

CONCLUSION

Current public fear of environmental health hazards may cause an analogous government overreaction in the 1980s to the barrage of environmental laws in the 1970s. To protest and restore environmental quality the federal government responded with the simplest and quickest form of control—regulation. Promulgating regulations and enacting laws, it addressed the problems and noticeably improved the quality of the environment. At the same time, the plethora of uniform standards commensurate with the fervor with which they responded were so strict and inflexible that many older industrial plants could not achieve abatement levels. As a result, they closed; unemployment rose; tax bases were lost; and other negative economic impacts were felt.

Similarly, the generic national cancer policy rejects cost-benefit analysis. Given the present pressures of the economy, would it not be wiser at least to use the guidelines of cost sensitive analysis? It is misdirected for converging on a very low percentage of cancer cases. More judiciously, a national cancer policy should focus on the single simple largest cause of cancer—personal habits.

The compensation issue expands the breath of environmental law. Because contaminants pervaded the environment, they presumably caused various illnesses. With the increased number of legal claims and subsequent proposals in Congress, the federal government will have to make some final arrangement and it is hoped with the deliberateness lacking in the emotional reactions of the past.

LOUIS J. CORDIA,
Policy Analyst.●