SENATE—*Wednesday, June 15, 1983*

(Legislative day of Monday, June 13, 1983)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

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

Let us pray.

Father in Heaven, inasmuch as Thou knowest all things, hiding from Thee is an exercise in futility. Give us the wisdom to understand this. Thou knowest our thoughts before we think them, our words before we speak them. Trying to deceive Thee, we deceive only ourselves, and deprive ourselves of Thy gracious kindness.

What a waste Father, that we should bear a load of corrosive guilt when Thou art so ready to forgive and renew if we confess our sin and need. Help us to see that there is nothing we can do to make Thee love us more and there is nothing we can do to make Thee love us less. Help us to open our hearts, acknowledge our need, and receive your unconditional, forgiving, renewing love. In the name of Him who submitted to the cross in demonstration of that love and forgiveness. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

SENATE SCHEDULE

Mr. BAKER. Mr. President, this morning will be a busy morning. There are four special orders plus leader time and an order that the Senate will resume consideration of the supplemental appropriations bill not later than 10:40 a.m.

That is going to be tough to do, Mr. President, but that is what we need to do, because it is the hope of the leadership on this side that we can get on the supplemental appropriations bill and finish it today. If we do not finish it today, we will still be on it tomorrow. Whether we finish today or not probably will determine whether we are going to be in session on Friday, because we have still the repeal of withholding on dividends and interest to do this week, and if that has to wait to Friday to come up, we are still going to do it.

So, Mr. President, I urge Senators to consider that the supplemental appropriations bill is far from the last appropriations bill they are going to see this session and they need not exhaust their legislative agenda on this single item and that we ought to get on with the business at hand.

The whole question of pay and limitations on outside income will be debated today, no doubt. I hope we can resolve that issue and get on with the balance of the matters to be dealt with in the supplemental appropriations bill at an early hour.

I do not expect the Senate to remain in session late today. I anticipate recessing about 6 or 6:30 p.m.

Mr. President, I have no further need for my time under the standing order and I yield any time remaining of the abbreviated time to the minority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The distinguished minority leader is recognized.

IS THERE A DEAL IN THE WORKS FOR AFGHANISTAN?

Mr. BYRD. Mr. President, after more than 3 years of brutal occupation, there are faint signs that the Soviet Union may be prepared to withdraw its 105,000-man army from Afghanistan. The Washington Post of Sunday, June 16, carried a report that preliminary talks on Afghanistan have been held by the Foreign Ministers of Pakistan and the Soviet Union.

Many times during the course of the past 3 years I have addressed the Senate on this important issue, repeating the call for a free and independent Afghanistan. I have insisted that the Soviet Union end its naked aggression, respect the international rule of law, and abide by the numerous resolutions passed by the U.N. General Assembly calling for the withdrawal of Russian troops from Afghanistan. The heavy losses inflicted upon Russian troops by the courageous Afghan freedom fighters and the continued opprobrium heaped upon the Soviets by the international community may, at last, have convinced them that their attempt to crush Afghanistan under the heel of totalitarianism could not succeed. Perhaps the Soviets see the light as well.

However, let us not deceive ourselves. News reports of the meeting between the two Foreign Ministers indicate the Soviets intend to retain some form of puppet regime which they have established in Kabul. There are indications that they intend that Afghanistan will join those pitiful nations that make up the Soviet collection of satellites; to become yet another piece of landscape whereby the Soviets strip the country of its resources and return only repression and misery.

Therefore, I believe it is imperative that the international community continues to press the Soviet Union to withdraw its army and permit a truly free and independent Afghanistan nation—a nation free from the domination of any foreign force. A strong, nonalined Afghanistan does not pose any threat to the Soviet Union. Indeed, it would provide the stability that 3 years of fighting has failed to produce. In addition, it should be clear to the Soviets that the determination of the Afghan freedom fighters is such that they would never accept Soviet tyranny from afar, since they have fought so long and hard to defeat the tyranny of the Red Army in Afghanistan itself.

If the recent meeting of Pakistani and Soviet Foreign Ministers signals the onset of negotiations leading to a Russian withdrawal from Afghanistan, I welcome this development. However, a negotiated solution must also include an elected government, chosen freely by the Afghan people themselves. However, history is not on the side of the Afghan people. The bitter experience of the international community with Soviet regimes has taught us that they do not respond to a conventional sense of morality, nor do they value the ideals of freedom and sanctity of the individual which are the very foundation of democratic traditions.

Winston Churchill once observed that Soviet policy was often "a riddle, wrapped in a mystery, inside an enigma." Maybe, in the case of Afghanistan, the Soviets will see their interests much more clearly than has been the case in the past. And the interests of the Soviet Union would be served only if Afghanistan were returned to the Afghan people.

APPROPRIATIONS BILLS

Mr. BYRD. Mr. President, anent the majority leader's reference to appropriations bills, there are four I see

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

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that await action. I am sure that it will be in the interest of all Members of the Senate to see these appropriations bills adopted by the time the Independence Day recess occurs. Is that the plan of the majority leader?

Mr. BAKER. Yes; Mr. President, it is, indeed. I think it is urgently important that we do that. We have some problems in getting them out of our own Appropriations Committee in time to do that, but I believe we can.

We have another complication on the question of authorization bills to accompany some of these appropriations bills, but I believe we can work our way around that complication. On HUD, for instance, both the authorization bill and the appropriation bill are here. I am not yet ready to recommend whether we should pass the authorization bill first, which would be the normal and ordinary course of affairs, or whether we ought to go ahead and do the appropriation bill which is available. I will consult with both Senator HATFIELD and Senator GARN on that subject and have a further announcement to make a little later.

Mr. BYRD. The Appropriations Subcommittee on Energy and Water marked up a bill yesterday. I believe the chairman of the Appropriations Committee is moving quickly.

Mr. BAKER. He is.

Mr. BYRD. So that appropriation bill will be reported to the Senate shortly.

I personally wish to compliment Mr. HATFIELD on the speed with which he is pressing forward with the appropriations bills.

Mr. President, if I have any time remaining I yield it to Mr. JACKSON for his use.

Mr. JACKSON. I thank the distinguished minority leader.

RECOGNITION OF SENATOR JACKSON

The PRESIDING OFFICER (Mr. HEINZ). The Senator from Washington is recognized for 15 minutes.

CENTRAL AMERICAN COMMISSION

Mr. JACKSON. Mr. President, I send a resolution to the desk on behalf of Senator MATHIAS and myself.

Mr. President, I am honored to be joined by Senator MATHIAS in introducing a resolution urging the President to convene a national, bipartisan commission on U.S. policy in Central America.

Over the last several weeks, the debate over Central America has become even more fractious and our policy even more paralyzed. Our diplomatic personnel get shifted around, rhetoric gets louder; piecemeal, ad hoc proposals get floated; and an effective long-term policy gets ever more remote.

Our Nation simply cannot afford this stalemate, nor can we afford incrementalist approaches which sap political energies for lack of a coherent, comprehensive policy. The strategic stakes are too high.

As I noted in extended floor remarks on the subject on May 12, it is understandable that some American citizens and political leaders prefer not to see the United States engage itself in Central America. The problems there are enormous and do not lend themselves to quick solutions. But that is no longer the choice before us. The question is not whether we will engage, but how.

A majority of the Members of Congress now recognize that threats to the stability of Central America arise in large part from long histories of economic and social injustices. Obviously, military solutions alone will not meet our Nation's long-range security needs in the region. The economic and social deprivations, as well as the abuses of human rights endemic to some countries in Central America, are going to have to be addressed.

What Senator MATHIAS and I are proposing is a Presidentially appointed commission composed of distinguished leaders from all sectors of American society that will investigate the full range of our relationships with Central American nations, consult with leaders from the region, and make recommendations on an appropriate long-term policy—a policy that will resemble, in its commitment and sense of responsibility, the European Economic Recovery Plan of George Marshall.

Mr. President, the strategic interests of the United States in a stable Central America are at least as high as in a stable and secure Western Europe. A sequence of crises leading to Castro-type regimes throughout Central America, including Mexico, would have disastrous consequences. None of us relishes the prospect of living in a garrison state, unable to meet our commitments to our NATO allies, friends in the Middle East, and others. Nor do we like to contemplate the threat such a course of events poses to the fundamental nature of American society and her democratic institutions.

Obviously, the circumstances between Europe and Central America are vastly different. Quick and massive transfers of wealth from this country to Central America will not insure stability in the region. The economic and social problems are much too systemic and chronic, and conditions vary widely from country to country. What we need is a policy that has a 30- to 50-year vision of building democracy, increasing economic opportunity, and reinforcing human rights for the peoples of Central America. Only if we strongly project such a long-term goal can our short-term policies garner the support of the American people, our allies, and the peoples of Central America.

I will not deny that the recommendations of the commission will likely require sacrifice by American citizens. But the sacrifice will be minor compared to the sacrifices required if the nations of the Central American isthmus, including Mexico, are destabilized, undergo economic and social collapse, and become hostile nations allied with Cuba and the Soviet Union.

I urge my colleagues to join us in taking this important first step toward a much needed bipartisan assessment and formulation of our Central American policy.

Mr. President, I yield to the distinguished Senator from Maryland.

Mr. MATHIAS. Mr. President, I thank the senior Senator from Washington.

Mr. President, when Senator JACKSON invited me to join him in introducing this resolution, I welcomed the chance to associate myself with an initiative that could galvanize a new approach toward Central America, an area whose welfare and stability are of vital concern to the United States.

The resolution we introduce today—calling on the President to "convene a national bipartisan commission to address the serious longstanding problems of security and economic development in Central America"—seeks to promote a national consensus on a comprehensive U.S. policy toward that area. It intends that this policy be informed by consultation with governmental and other leaders of Central America, and that it be framed by a group of outstanding citizens, representing a broad spectrum of national life.

The reasons for setting up such a commission are obvious. The guerrilla warfare in El Salvador and Nicaragua that dominates our concern about the area today is only the most visible and contemporary expression of ancient and profound economic, social, and political problems. We cannot hope to address one problem successfully without addressing them all. And we cannot hope to address them all successfully without seeking a broad national consensus for such a policy and without basing it on the hopes and aspirations of the peoples of Central America.

As Carlos Fuentes told the graduating class at Harvard University last weekend, "The United States can no longer go it alone in Central America and the Caribbean. It cannot, in today's world, practice the anachronistic policies of the 'Big Stick'."

The proposal we launch today recalls to mind another day and another commencement address at Harvard

University. The analogies are not precise. The times and the circumstances are very different. But Secretary of State George C. Marshall's words to the Harvard graduating class of 1947—words that inaugurated the European recovery program—apply as well to this enterprise.

"It is logical," Secretary Marshall said,

that the United States should do whatever it is able to do to assist in the return of normal economic health to the world, without which there can be no political stability and no assured peace. Our policy is directed not against any country or doctrine but against hunger, poverty, desperation and chaos.

The European nations responded immediately to Secretary Marshall's proposal and began to draw up an economic recovery program. Meanwhile, in order to assure congressional passage of the massive assistance program, President Truman appointed two committees to study whether the United States could afford to support a program of such magnitude. He also instructed the newly formed Council of Economic Advisers to analyze the domestic impact such a program might have.

One of these committees—the President's Committee on Foreign Aid—was composed of distinguished private citizens drawn from the ranks of business, labor, finance, agriculture, and academic institutions. Its chairman was W. Averell Harriman, a man who to this day continues to contribute richly to our national life, most recently through his revealing discussions with Soviet Secretary General Yuri Andropov.

Among the committee's members were national leaders of the caliber of George Meany, then treasurer of the American Federation of Labor; Paul G. Hoffman, president of the Studebaker Corp.; and Robert Gordon Sprout, president of the University of California.

That committee could serve as a model for our commission in many ways, although as I said earlier, the parallels are not exact. Its conclusion, in recommending the massive economic aid program, also is worth contemplating as we attempt to devise a new approach to Central America.

The report described a state of affairs in post-World War II Europe similar to the situation in Central America today. It stated:

The democratic system must provide the bare necessities of life now and quickly rekindle the hope that by hard work a higher standard of living is attainable. If these countries by democratic means do not attain an improvement in their affairs, they may be driven to turn in the opposite direction. Therein lies the strength of the Communist tactic: It wins by default when misery and chaos are great enough.

The report concluded:

We cannot make or expect guarantees. But we can make intelligent choices. We shall be engaged in a vast undertaking . . . we are laying the groundwork for a new world with greater opportunities and greater hope.

Our goal in proposing this commission is not very different from theirs and no less urgent. Our prospects for success are no less bright, providing only that the people of the United States come to perceive a new relationship with Central America to be in the national interest and that they gird themselves to make whatever sacrifices are necessary to achieve it.

We are setting an enormous task for this commission. "What we need," as Senator JACKSON said in his eloquent introductory remarks, "is a policy that has a 30- to 50-year vision of building democracy, increasing economic opportunity, and reinforcing human rights for the peoples of Central America." I am proud to join with Senator JACKSON in that sentiment.

I am optimistic that we can achieve this policy. I am confident that the vehicle to achieve it is a bipartisan Presidential Commission. And I am encouraged by the examples of the Scowcroft Commission and National Commission on Social Security Reform to believe that even the most stubborn and difficult problems can be resolved if we are determined to resolve them.

Mr. JACKSON. Mr. President, I again want to express my appreciation to the distinguished senior Senator from Maryland for joining in this bipartisan effort. We hope that we will have good, solid support in the Senate so that the world will know of our commitment and dedication to a better life for the peoples in Central America.

The military shield, Mr. President, will crumble unless we have a sound and effective foundation which deals with the issues that the distinguished Senator from Maryland has just mentioned. The issues of poverty, misery, disease, denial of human rights—all of those problems have to be addressed if true democracy is to come to the peoples of Central America and if it is to endure.

Mr. MATHIAS. If the Senator will yield for one more moment, I am particularly pleased to forge this partnership today with the senior Senator from Washington. I think there is something symbolic because we bridge this continent from the icy waters of the Puget Sound to the——

Mr. JACKSON. Warm waters.

Mr. MATHIAS [continuing]. To the warmer waters of the Chesapeake Bay. I think that is symbolic in that it represents the national concern over what is happening in Central America and what might happen in Central America, and that we really do express today here a continental opinion that something has to be done. What has to be done has to rise above partisan politics, has to rise above party, has to look far into the future. That is really the purpose of this resolution.

We invite other Members of the Senate to join with us in promoting the concept of this commission.

The Senator from Washington has a reputation which is excelled by none in the Senate for the defense of the rights of Americans wherever they may be in the world. I think the fact that he has taken the leadership in this question and sees the imperative of moving in the economic-social field is an important indication that that is where the problem lies and that is where we must make progress.

Mr. JACKSON. I thank my colleague for his joint participation in this endeavor.

Mr. President, I ask unanimous consent that the resolution remain at the desk for cosponsors for the balance of this week.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the text of the resolution be printed in the RECORD.

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

S. RES. 158

Whereas Central America is of vital importance to the interests and long-term security of the United States;

Whereas the social and economic crises facing Central America arise in large part from long histories of poverty, social injustice, and lack of economic opportunity;

Whereas military solutions alone are inadequate to deal with the challenge the United States faces in Central America, and efforts to resist Communist insurgency will be unsuccessful unless the serious social and economic injustices and human rights abuses of the region are addressed;

Whereas respected leadership from all sectors of American society and from all regions should be drawn on in the making of United States policy toward Central America; and

Whereas an effective United States policy for Central America requires the understanding and support of the American people: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the President should convene a national bipartisan commission to address the serious long-term problems of security, poverty, and democratic development in Central America, and to help build the necessary national consensus on a comprehensive United States policy for the region; and

(2) Such Commission should—

(A) be composed of distinguished leaders of government, business, labor, education, and the Hispanic and religious communities;

(B) consult with governmental and other leaders of Central America, invite their views and receive their recommendations on the policies which would best assist them in their long-range security needs and economic development; and

(C) report its findings and recommendations to the President and the Congress 180 days after the date of adoption of this resolution.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

RECOGNITION OF SENATOR HEINZ

The PRESIDING OFFICER (Mr. SPECTER). Under the previous order, the Senator from Pennsylvania (Mr. HEINZ) is recognized for not to exceed 15 minutes.

SPECIALTY STEEL IMPORTS

Mr. HEINZ. Mr. President, we are opening today in the Senate of the United States an important debate, a debate I hope will be heard in other branches of our Government and the news media, through all our States and communities, and, eventually throughout the world.

Members of the Senate from various States across the Nation are joining in a colloquy in support of one of our most essential industries—specialty steel. But far more than the fate of this one industry and of its highly skilled workers is at stake in the discussion today and in the decision which the President must make on specialty steel imports within a few days after the Fourth of July.

Indeed, what is at stake in the questions we will raise here today is the whole future of industrial democracy, not only in this country but in the world. We have in the specialty steel industry of America a unique test case. Perhaps in no other industry are the lines so clearly drawn on one of the great questions of our time, the question not only of whether an American industry can survive against subsidized imports, but whether our entire free economic system can endure in competition with the Socialist and quasi-Socialist systems in the world around us.

In specialty steel we have an industry that is acknowledged as the global leader in technology, in cost efficiency, in the productivity of its workers. Yet it is being forced to the wall by imports from countries where the specialty steel industries are either outright owned by foreign governments or are heavily subsidized by the treasuries of governments which enjoy unlimited taxing authority.

In specialty steel we see an industry that defeats all its rivals on all the classic points of comparative advantage, and yet is losing out to these same rivals because of the artificial advantages provided by their governments.

In this industry, so essental to our national economy and to our national defense, we have a text book case of a modern, pace-setting, high technology industry that has done all the things it should do to maintain the leading position in its home market and to expand its exports abroad. But it is being beaten to its knees here in its own domestic marketplace by subsidized imports and its world markets are being picked off one by one by the creeping socialism that is gradually embracing basic industries in other countries.

Mr. President, if this competitive, aggressive, technologically advanced specialty steel industry cannot survive and stay afloat in the rising sea of subsidies, then no American industry will ulitmately survive under our present system.

In short, it is the system itself that is being tested in this decision which the President of the United States must make within a few short weeks.

If the President makes the right decision and grants specialty steel an import restraint program that will give the industry a fighting chance to maintain its world leadership in technology and production, he will send a clear message to all other countries that the United States of America is determined to defend its free enterprise industries and its free economic system against predatory trade practices, and, most especially against the ever-growing subsidization of trade.

If, however, the executive branch permits itself to be pressured by foreign interests into a weak response to this challenge, I am very much afraid that it will, however unintentionally, give our trading partners the wrong message—the message that they can continue subsidizing their exports to the United States, that they can keep on shipping their unemployment and other social problems to our shores, that they are perfectly free to keep indulging in the uneconomic practices that have led not only to a world overcapacity in steel, but to the tremendous strains on the world banking system, and indeed to what many economists fear could become the threatened collapse of the world financial structure.

Mr. President, we want our trading partners to thrive and prosper, but not over the dead body of the specialty steel industry and other industries in our own country. We want to see their economies recover from the world recession, as ours is doing right now. But they must be made to understand that their economies cannot truly recover unless they abandon the fundametally uneconomic socialist approaches which have fueled inflation in the past, including the subsidization of their industries for export purposes.

I would now like to take a closer look for a moment at what foreign government subsidies have done to the specialty steel industry and its workers.

It is now more than a year and a half since the specialty steel industry of the United States and the United Steelworkers of America, AFL-CIO, jointy filed a complaint under section 301 of the Trade Act against subsidies by seven other countries, subsidies that are not only in violation of our U.S. laws, but of the GATT international codes as well.

That 301 case led to the President's decision last November 16 to take the unusual action of initiating a section 201 escape clause case on behalf of the specialty steel industry and its workers. In taking that action, the President confirmed that the joint industry-union allegations of subsidies are well founded, that the injury to the domestic industry is clear, that the specialty steel industry is an efficient, technologically up-to-date and export-oriented branch of the steel industry, and that its output is used in a wide range of demanding applications critical to an industrial economy.

The President noted that this industry is far more profitable, in the true sense of that word, than most of their major competitors abroad.

Nevertheless, he added, the industry is facing an unprecedented challenge to its continued prosperity, and a number of its member firms are fighting for survival.

He also put his finger firmly on the source of the problem—unfair imports, which are resulting from what he corectly identified as the global trend toward greater excess capacity, increased subsidization, and closed markets.

The President's determination in this landmark case was unprecedented. Never before had a Chief Executive so clearly identified the problem of an American industry and its workers in an international trade case. In fact, never before had a President so incisively described the reasons for the decade-long malaise afflicting so much of our domestic economy—unfair imports resulting from excess capacity, increased subsidization, and closed markets conditions which exist not just in specialty steel, although that was the proximate case he focussed on so trenchantly.

Since that Presidential action last November to initiate an accelerated escape clause case, the U.S. International Trade Commission conducted a thorough investigation, issued a finding that the specialty steel industry and its workers were being injured by imports, and recommended to the President on May 6 that he implement a 3-year import restraint program in some specialty steel products.

Unfortunately, 3 years is not sufficient time for the industry to recover or to commit itself to a program of capital investment and increased funding for research and development, a program it must undertake soon if it is to maintain its position of leadership in technology and productivity.

Nor are the restraint levels recommended by the ITC low enough to give the industry any real relief unless demand for its products were to suddenly soar to historic levels. In fact, in one product line, stainless steel rod, the ITC suggests import levels of no less than 42 percent.

Dr. Adolph J. Lena, chairman of both the AL Tech Specialty Steel Corp., and the Advisory Committee, Specialty Steel Industry of the United States, has pointed out that there is no sound economic reason why the domestic industry—by far the most efficient producer—should surrender 42 percent of its home market to foreign producers who are less efficient and less cost-effective.

Dr. Lena and Lloyd McBride, president of the Steelworkers, have jointly communicated with President Reagan, giving him their reasons why a 5-year restraint program is necessary and setting forth more realistic import levels than those recommended by the ITC.

Mr. President, neither Dr. Lena nor Mr. McBride—nor any other responsible leader of either industry or labor—has suggested that we close the door entirely to imports of specialty steel products. The import levels they suggest range up to 23.8 percent of the domestic market in the same product the ITC recommends a 42-percent level.

As Dr. Lena has stated, the domestic industry would not have to surrender any portion of its home market if the classic laws of comparative advantage and true free trade were operable in our era. Unfortunately, they are not so Dr. Lena and other industry leaders are forced to swallow a bitter pill in the name of realism, a realism I might add that ignores actual economic realities.

Mr. President, I ask unanimous consent to insert in the RECORD at this point a joint release issued by the steelworkers and the specialty steel industry summarizing Lloyd McBride's and Dr. Adolph Lena's joint letter to the President and detailing the tariff import levels recommended by the ITC and the industry.

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

SPECIALTY STEEL INDUSTRY OF THE UNITED STATES

PRESIDENT ADVISED BY INDUSTRY, LABOR THAT ITC RECOMMENDATIONS ON SPECIALTY STEEL IMPORT RESTRAINTS ARE NOT ADEQUATE TO REMEDY SEVERE INJURY

WASHINGTON, May 10.—President Reagan was told today by leaders of both industry and labor that the three-year restraints recommended by the U.S. International Trade Commission on foreign specialty steel are not adequate to remedy the serious injury suffered by the domestic injury and its workers from illegal imports.

Lloyd McBride, President of the United Steelworkers of America, AFL-CIO/CLC, and Dr. Adolph J. Lena, Chairman of Al Tech Specialty Steel Corporation and the Advisory Committee, Specialty Steel Industry of the United States, detailed the reasons for the their position in a letter to the President.

McBride and Lena referred to the ITC recommendation voted by the Commission April 27 and sent to the White House last Friday (May 6). The ITC urged the President, who has 60 days to make his decision, to impose three years of quantitative import restraints with differing levels for various product categories.

"Unfortunately," McBride and Lena said, "the ITC recommendation, if adopted, will not adequately remedy the serious injury that the U.S. specialty steel industry has suffered. The industry needs five, not three years of quantitative restraints, at levels well below those recommended by the ITC.

"A five-year relief program is necessary so the excess world capacity can be reduced and the unfair practices of our foreign competitors eliminated," they said.

McBride and Lena emphasized that "a full five years of relief is also needed so that the capital-intensive U.S. industry can make the investments needed to stay technologically advanced."

They reminded Mr. Reagan that, in initiating the Section 201 (escape clause) case with the ITC last November, he verified that the specially steel industry is "An efficient, technologically up to-date and export oriented branch of the steel industry" which is "facing an unprecedented challenge to its continuing prosperity, and number of its firms are fighting for survival."

"The specialty steel industry will make the commitment to a continuation of aggressive capital investment and research and development during a five year relief period." the industry said in the letter to the President.

"This activity will allow the industry to remain competitive and to provide other U.S. industries not only the commodity-type specialty steels exported to the U.S. by foreign producers, but also the very advanced specialty steels required for high technology and defense applications," the letter continued.

McBride and Lena informed the President that the import levels recommended to him by the ITC are much too high. "The minimum import levels under the ITC recommendation are so large that domestic demand would have to increase substantially, to near historic peak levels, before the restraints would have any effect," they said.

"The ITC approach will not effectively remedy the injury suffered by the industry and its workers, thousands of whom are now unemployed," they pointed out. McBride and Lena recommended the President's decision "embody the historical reference periods and quantitative restraint levels that we originally proposed to the ITC."

McBride and Lena told President Reagan "the future of an efficient, technologically advanced industry—an industry vital to the U.S. economy and to our national defense—rests largely in your hands.

"You have already expressed your concern for the health of this competitive industry. We urge you to act promptly and effectively to remedy the serious injury suffered by the specialty steel industry and its highly skilled workers."

The industry and labor leaders again asked the President for a meeting "as soon as possible to discuss this urgent issue."

The import restraint levels recommended by the ITC Friday and by the Specialty Steel Industry and the United Steelworkers today are as follows:

	ITC		Industry	
	Percent	Minimum tons	Percent	Minimum tons
Stainless steel bar	17	27,000	13.6	19,600
Stainless steel rod	42	19,100	23.8	3,941
Stainless sheet and strip	8	62,900	5.9	38,436
Stainless steel plate	10	10,700	2.7	2,976
Total steel	20	22,400	16.7	18,700

In another specialty steel trade matter, the industry and labor leaders pointed to a final determination by the Department of Commerce of subsidy of stainless bar and rod from Brazil.

The Commerce Department said that stainless bar and rod imports from Brazil were subsidized at the level of 15.44 percent during 1981, which is a higher subsidy level than the 12.5 percent in Commerce's preliminary determination.

However, apparently recognizing that Brazilian subsidies continue to increase, the Commerce Department is requiring the Brazilian government to impose an export tax of 16.26 percent.

Brazil is required to impose the export tax because of a suspension agreement with the United States government.

The member firms of the Specialty Steel Industry of the United States are: Allegheny Ludlum Steel Corporation; AL Tech Specialty Steel Corporation; ARMCO Stainless Steel Division, ARMCO Inc.; Braeburn Alloy Steel Division, CCX, Inc.; Carpenter Technology Corporation;' Columbia Tool Steel Company; Crucible Materials Group, Colt Industries, Inc.; Eastern Stainless Steel Division, EASTMET Corporation; Guterl Special Steel Corporation; Jessop Steel Company; Jones & Laughlin Inc.; Joslyn Stainless Steels; Latrobe Steel Company; Republic Steel Corporation; Universal Cyclops Specialty Steel Division; Cyclops Corporation and Washington Steel Corporation.

Mr. HEINZ. Mr. President, there are other Members of the Senate who I know need and want to be heard on this issue, but before yielding to my distinguished colleagues I want to bring to the attention of the Senate a letter that we will be sending in 2 days' time, on June 17, to the President urging a full 5 years of import relief for the specialty steel industry. We will hold this letter until Friday, June 17, for additional signatures of Senators. At this point we already have 25 Members of the Senate who have signed this letter, and I anticipate more signatories particularly if my colleagues take advantage of the next day or so to read the colloquy today so that they may fully understand the nature of the problem confronting the specialty steel industry and our Nation.

Mr. President, I ask unanimous consent that the text of the letter I referred to, to be sent to the President, dated June 17, be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C. June 17, 1983.

DEAR MR. PRESIDENT: We are writing to you to express our support for a strong effective remedy in the specialty steel section 201 case.

In your statement last November 16th, you noted that the domestic specialty steel industry "is an efficient, technologically up-to-date and export oriented branch of the steel industry." You also indicated that the industry is facing an unprecedented challenge to its continuing prosperity and a number of its firms are fighting for survival because of the injury caused by imports. You asked the United States International Trade Commission to investigate the industry under section 201 of the Trade Act of 1974. The ITC has done so, and found that the domestic industry has been seriously injured by imports.

We believe that an adequate remedy for the industry consists of three elements: a full five years of import restraints; restraints that maintain imports at normal levels, and minimum import levels that are based on normal industry performance data rather than the peak levels of production assumed by the ITC.

In your November 16th memorandum, you directed the United States Trade Representative to initiate multi-lateral and/or bilaterial discussions aimed at the elimination of all trade distortive practices in the specialty steel sector. We are aware that this process has begun, and respectfully urge that such discussions be carried out aggressively during a five-year import relief program. In addition, five years are needed by the industry so that it can plan and carry out the investments needed to remain technologically advanced.

The domestic specialty steel industry is an efficient, high technology industry which is essential to our national defense and our industrial economy. This is an industry which is highly competitive and deserves to survive. It has fought battles against imports for years and has shown through successful cases that a high percentage of imports are dumped or subsidized. After the industry has struggled for so many years, you now have an opportunity to develop the kind of long-term, comprehensive solution you envisioned in your November 16th memorandum. We support your efforts to help this industry, and respectfully urge a strong, effective remedy.

Sincerely,

John Heinz, Orrin Hatch, Carl Levin, Howell Heflin, Alan J. Dxion, Paul Sarbanes, Jim Sasser, Daniel Patrick Moynihan, Jennings Randolph, Fritz Hollings, Charles McC. Mathias, Jr., Don Quayle, Jake Garn, Arlen Specter, Sam Nunn, Charles Percy, Dennis DeConcini, Mack Mattingly, Jessie Helms, Walter D. Huddleston, John Melcher, Rudy Boschwitz, Robert C. Byrd, Alfonse D'Amato, Don Riegle.

Mr. HEINZ. Mr. President, the Senator from Pennsylvania (Mr. SPECTER) also is on the floor and is a part of this colloquy. I yield to him on his time, if he wishes, reserving the remainder of my time.

Mr. SPECTER. That would be fine.

I am delighted to use the time on my special order.

RECOGNITION OF SENATOR SPECTER

The PRESIDING OFFICER. Under the previous order the Senator from Pennsylvania (Mr. SPECTER) is recognized.

SPECIALTY STEEL IMPORTS

Mr. SPECTER. Mr. President, I begin by commending my distinguished colleague, Senator HEINZ, for the leadership which he had exhibited as chairman of the Steel Caucus on behalf of the steel industry of the United States. In taking these initiatives Senator HEINZ has been acting in the national interest because of the absolute necessity in having a domestic steel industry which can serve the United States both in time of national emergency and also to take care of our domestic production.

It so happens that steel is a very vital part of the economy of Pennsylvania, which gives a double reason for the leadership of Senator HEINZ, and I am pleased to join with him on these efforts.

The steel industry has long been the number one industry in our Commonwealth of Pennsylvania, accounting for some 14 percent of its employment prior to the past several years. Lately there have been many problems which have beset the national steel industry, such as unfair foreign trade practices and foreign dumping, and these problems touch very directly upon the subject of the specialty steel industry.

The domestic specialty steel industry is, in fact, a very important component in our complex national economy.

The products made by this industry and its very skilled workers are essential for national defense, and beyond that essential to many other key industries, including aerospace and telecommunications, oil and natural gas production and transportation, marine navigation and computer technology. And virtually any list would be incomplete without mentioning the pervasive influence of specialty steel in our economy.

The United States of America cannot afford to become totally dependent upon foreign sources of supply for the high-tech metals so critical to our industrial society and to our survival as a nation.

We have learned from the bitter experience of dependence on a foreign source of supply of OPEC oil. The long gas lines which plagued the United States late in 1973 and early 1974 caused a sharp reversal of our national policy. Once we begin to rely upon foreign supply, it invites the foreign suppliers to raise the cost, thus putting a strangle hold on the United States. We should not allow ourselves to be in this position again with any product—be it oil or specialty steel. However, that is the risk we face unless action is taken now on the specialty steel issue.

It is now more than a year and a half since the specialty steel industry of the United States and the United Steelworkers of America filed a joint petition under section 301 of the Trade Act requesting that our Government take action to end the illegal foreign government subsidies of specialty steel exports that was even then severely injuring the domestic industry and its workers.

Since that time two companies producing specialty steel have filed for bankruptcy. Bethlehem Steel abandoned its tool steel business after three-quarters of a century of production. And Colt Industries shut down its stainless steel mill at Midland, Pa., last October idling another 5,000 workers, and demoralizing the small town of Midland, Pa.

Senator HEINZ and I personally bear witness to the problems of that town, from an open house town meeting which we held jointly there on March 5 of this year. At that time the town residents crowded into a high school auditorium and told us of their problems, and we feel it is simply unfair to have some 5,000 workers thrown out of work and be victimized by unfair foreign trade practices.

Moreover, these events are only the tip of a much larger and more tragic iceberg. Unemployment in some specialty mills has run as high as 60 percent during the past year. Short work weeks are commonplace. And many of the major producers of specialty steel ended 1982 losing money.

How is it that an industry acknowledged by all to be the world leader in technology in its particular field of production could be brought to such a pass as this? Most of us here today know the answer to that. Our private companies in Pennsylvania, Ohio, Michigan; and in many other States of the United States are being forced to compete with foreign governments which are subsidizing their specialty steel industries in order to export their unemployment and other social problems to the United States.

The U.S. Trade Representative's office confirmed these subsidies after long investigation. The President acknowledged them last November when he initiated the section 201 escape clause case on behalf of the industry and its workers. And the specialty steel industry and its employees are forced to live with the grim results of this subsidization.

I remind my colleagues that the kind of subsidies we are discussing here are not only illegal under our countervailing duty laws. They are prohibited by international trade law too. Yet these codes are openly flaunted by our trading partners with the result that a technologically advanced industry like

specialty steel is forced to fight for its very survival.

The President of the United States has a golden opportunity to correct this problem in the section 201 case now before him. It is obvious that illegal subsidies played in major role in injuring our specialty steel industry and its workers. Although subsidies are not one of the criteria in escape clause cases, the President can nonetheless put our trading partners on notice that the United States will no longer tolerate such illegal practices in international trade. He can best do this by fully enforcing the Trade Act of 1974 which can grant a full 5 years of import restraints on specialty steel products.

To give my colleagues, and the President, a more detailed overall view of just what is involved in the specialty steel decision I ask unanimous consent to have printed in the RECORD an article by Jane Blotzer of the Pittsburgh Post-Gazette along with the accompanying table showing the various products covered by the ITC recommendations, the import penetration in these products in 1982, the limitation levels recommended by the Commissioners, and the levels requested by the industry.

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

[From the Pittsburgh Post-Gazette, Apr. 28, 1983]

ITC RECOMMENDS SPECIALTY STEEL QUOTAS

(By Jane Blotzer)

HARRISBURG.—The U.S. International Trade Commission has recommended that the president restrict imports of specialty steel products for three years.

The year-and-a-half old case will not be concluded, however, until President Reagan makes his decision, required by July 5.

The recommended remedy comes a month after the ITC ruled that specialty steel imports had caused substantial harm to the domestic industry.

At a time when the clamor for import restrictions and stricter import laws is growing, Commissioner Paula Stern said, "The case demonstrates that import relief is available under existing law, even when an American industry is suffering from the most serious post-war recession."

It is the second time in seven years that the commission has recommended that the president restrict imports of the specialty steel products.

In 1976, President Ford imposed quotas that lasted until 1980.

The industry claims the problem resurfaced once the restrictions were lifted.

The recommendations made by the ITC yesterday are not as far-reaching as the industry had requested—an overall market share of 8 percent of domestic consumption for five years.

Burt Delano, spokesman for the industry, said five years is a more realistic breathing spell and is the time needed to address the problem of worldwide overcapacity of specialty steel production capability.

"Now it is squarely in the hands of the president," he said.

"We have been inundated by imports, most of them illegal, for a great many years and if the president wants to preserve this vital industry he must provide meaningful relief very soon," said Adolph J. Lena, chairman of both the AL Tech Specialty Steel Corp. and the advisory committee of the Specialty Steel Industry of the United States.

It seems likely that the president will not totally ignore a recommendation for relief, since it was he who sent the case to the ITC in the first place, recommending expedited action.

The suit began in late 1981 as a Section 301 case, in which the specialty steel industry charged a broad range of unfair trading practices by importers.

In response to that suit, Reagan, in a highly unusual move, asked the ITC to conduct an expedited investigation under section 201 of the trade laws, which does not require proof of unfair trade, only that imports are a substantial cause of serious injury.

In taking the case to the ITC, Reagan acknowledged that the industry is "efficient, technologically up to date and export oriented branch of the steel industry."

But despite those characteristics, the industry, which is concentrated in the Pittsburgh area, has been experiencing the worst recession of its history. Some 40 percent of the 60,000 specialty steel employees are out of work and at least 10 of 17 specialty steel companies lost money in 1982.

The steelmakers said that imports—capturing nearly 20 percent of the domestic market in 1982 for the durable, heat-and-corrosion-resistant steel—were primarily responsible for the problem.

The commission recommended that the president restrict imports to a share of the domestic market in five areas—stainless steel sheet and strip; stainless steel plate, stainless steel bar, stainless steel rod; and alloy tool steel.

They also recommended that the president divide up that limit market share on a country-by-country basis.

The countries involved directly in testimony in the case were Japan, West Germany, France, Italy, Great Britain, South Korea, Belgium, Sweden, and Spain.

Mr. SPECTER. Mr. President, let there be no mistake that those of us who speak today do not raise the note of protectionism. We are articulating the cause of free trade but it is indispensable to free trade that it be fair trade and fair trade means the absence of foreign subsidies.

For too long in this country we have sacrificed our key industrial interests on the altar of foreign policy. Too often deals are made which permit the importing of goods such as British steel. This steel was identified by the International Trade Commission as bearing subsidies as high as $250 a ton. We permitted its importation in order to get British support on other matters such as NATO defense. Too often we have sacrificed U.S. industries on the altar of foreign policy in our dealings with the Japanese in an effort to have them undertake a more expansive role in the defense of the Southwest Pacific. Just last week this body approved some $8.4 billion for the International Monetary Fund over some dissenting votes, such as mine, who felt that the Fund is being used to subsidize foreign exports which engage in these unfair practices.

Treasury Secretary Regan appeared before the Foreign Operations Subcommittee a few weeks ago, and I had an opportunity to bring to his attention the practices of Brazilian steel which are subsidized by the Brazilian Government. I raised the point with Treasury Secretary Regan that I considered it unfair to the steelworkers of the United States to be paying taxes to the U.S. Treasury while the U.S. Treasury then advanced money to the International Monetary Fund which in turn advanced money to Brazil, which in turn subsidized Brazilian steel exports to the United States, which unfairly deprived those taxpaying steelworkers of their jobs.

Treasury Secretary Regan responded to me, as the written transcript will show, that if we cut off all subsidies to Brazilian steel, it would throw 300,000 Brazilians out of work. I responded to the Secretary of the Treasury that that would be unfortunate, but why should their unemployment be exported to the United States, and why should there be tens of thousands of American steelworkers out of work?

The Treasury Secretary responded that unemployment in the United States was not caused solely by foreign subsidies, and to that I agree. The problems of the American steel industry are more complicated than that, but some of its unemployment is caused by these foreign subsidies.

I do not believe that we should be engaging in the practice of supporting foreign subsidies. I feel this way not only for steel but also for produce and agricultural products which Brazil exports to Egypt and undercuts U.S. opportunities for those markets.

There is fair play in international affairs and that is indispensable if free trade is to work. The specialty steel industry is uniquely entitled to this consideration because of the high degree of efficiency within the specialty steel industry.

When applications are made from time to time under the U.S. trade laws, replies are received that some branches of American industry are not as efficient as they should be. This presents an opportunity for foreign imports which are perhaps, on some occasions, more efficient in their operations. However, this is not the case with specialty steel, and I feel that this industry merits special attention and consideration.

I urge my colleagues on this same subject to give further consideration to S. 418, the Unfair Foreign Competition Act of 1983. This legislation would open the U.S. courts to grant injunctive relief to stop such unfair foreign trade practices such as these. In

the long run it is my thought that the only really effective relief will be the self-help of American industry and American labor in going to the courts to stop these unfair trade practices.

Next Friday, June 24, the Judiciary Committee has scheduled hearings on a related subject, where we will be examining the plans of the United States Steel Corp. to bring British steel into the ferro-steel plants. The executives of United States Steel have represented that this action is necessary in order to save jobs in that plant.

The question is a complicated one, and there are very grave dangers in permitting foreign subsidies even in the short run, to save jobs because in the long run it has the potential for great ill.

Senator THURMOND, chairman of the Judiciary Committee, has graciously consented to permit these hearings. My colleague, Senator HEINZ, has agreed to join us in these hearings to make that important inquiry.

I note, Mr. President, that several of our colleagues have come to the floor, and I yield the remainder of my time, with the concluding statement that I urge all of our colleagues, including those who may not represent States which have had the highly undesirable fact of massive unemployment caused by these unfair subsidies, to listen closely and watch this very important subject so that the U.S. Senate may act as a body to stop these unfair practices.

Mr. HEINZ. Mr. President, will the Senator yield the remainder of his time to my control in the event we need it for other Senators?

Mr. SPECTER. I do so yield the remainder of my time to the senior Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I thank my distinguished colleague and friend from Pennsylvania for his remarks. I think he has stated the case very well.

Mr. President, I note the presence on the floor of the distinguished minority leader, Senator BYRD, who has been a very, very active member of the Senate Steel Caucus as well as the Senate Coal Caucus, and I yield him such time as he may require but not to exceed the amount of time I have.

Mr. BYRD. That is fair enough. I will take very little time.

Mr. President, first of all, I congratulate the two Senators from Pennsylvania for the statements they have made. As a member of the Steel Caucus I am one of the signatories on the letter which the distinguished Senator from Pennsylvania, Senator HEINZ, has just inserted in the RECORD, and that letter will be going to the President concerning the need for effective import relief for the specialty steel industry.

I personally appeared before the International Trade Commission in 1982 on behalf of the specialty steel industry and its employees in West Virginia. I expressed my belief that the domestic industry was being victimized by illegal trade practices carried out by some of the United States trading partners. These practices include dumping of goods on the American market at prices below the cost of production, and massive subsidization of industries by foreign governments.

On March 24, 1983, the ITC ruled that Japan, West Germany, France, Sweden, and Spain are illegally subsidizing the specialty steel products that they export to the United States, and that the domestic industry has been severely injured as a result of the illegal subsidization. The ITC ruling simply confirmed what I have been saying—that the United States is already engaged in a trade war, and we are losing without firing a shot—and it provides a sound basis for action to counteract illegal trade practices.

It is inexcusable that an industry as modern and efficient as the domestic specialty steel industry should have to suffer drastic injury as a result of imports from foreign producers who are less efficient. Foreign producers have ignored the standards of international conduct—and American laws—that are designed to govern the conduct of international trade.

The domestic industry has suffered as a result of the unfair actions of foreign producers. Unemployment in the domestic specialty steel industry has risen steadily as foreign producers captured a growing percentage of a shrinking American market. As the full force of the recession hit American producers, the foreign producers simply stepped up their imports.

Employment in the specialty steel industry has declined by 20 percent since 1980. Total manhours worked in the industry has declined by more than one-third over the past 3 years. In human terms, these figures translate into thousands of workers—many of whom live in West Virginia—and these people want to return to work.

The ball is in the President's court now. The ITC recommended a relief program for the domestic specialty steel industry that includes a 3-year quota on certain specialty steel products. I would urge the President to examine the benefits of a 5-year relief program along similar lines. While a 3-year program would be helpful, the 5-year program will help stabilize investment in our domestic industry.

Advanced research and development that is continuously carried out by the domestic industry runs closer to 5 years to realize product improvements that keep American specialty steel competitive. That research investment is the key to the long-run competitiveness of the specialty steel industry, and to the industries that use its products, such as electronics, aerospace, and military technology.

It is important to remember that specialty metals are vital to our national security, in that the metals make up components of jet and missile engines and structures, electronic systems, and high-speed machinery used in a variety of military applications.

I urge the President not to turn his back on this critical sector of our economy.

I thank the distinguished Senator for his courtesy in yielding and for the leadership he is providing in this matter.

Mr. HEINZ. I thank the distinguished minority leader and I thank him for an excellent statement.

Mr. President, how much time remains?

The PRESIDING OFFICER. Six minutes.

Mr. HEINZ. May I ask if there are other Senators seeking recognition under this special order?

● Mr. HEFLIN. Mr. President, in the near future the fate of one of this Nation's most important industries will be determined by the President of the United States. I join with my Senate colleagues today in urging the President to insure that industry's survivability by granting the maximum import relief permitted by U.S. law, a full 5-year relief program.

I am speaking, of course, about the specialty steel industry of the United States and its workers. After 7 months of investigation, the International Trade Commission recently voted 3 to 1 that the domestic industry was being seriously injured by imports of foreign specialty steel. In numerous separate actions, both the ITC and the Department of Commerce have found that our European trading partners have been illegally subsidizing and dumping their specialty steel products sold in this country. These decisions resulted from individual cases filed by the domestic industry as provided for in our trade laws. The industry has availed itself of all trade relief avenues. In all those instances, repeated investigations have proven the industry to be highly advanced in technology, in fact, superior to our trading partners, and an efficient producer. Despite having these two essential elements necessary to succeed in today's marketplace, the domestic industry is faced with market import penetration of nearly 20 percent. This market penetration has only been possible because our trading partners have been selling their products in the United States at prices below the cost of production as well as providing subsidies to their industry.

All of these statements argue in favor or providing the domestic industry with the import relief it seeks. Our specialty steel companies have played by the rules. Our trading partners have not. Indeed, they have flagrantly disregarded the international trading

laws they helped create. The specialty steel industry of the United States can compete and prosper in a fair marketplace. I encourage the President to restore that equality by granting the industry the 5-year relief program.●

● Mr. DIXON. Mr. President, the overall rise in imports of specialty steel has been dramatic. While some may claim that such imports are not at a critical level, the long-term effect of dumped or subsidized imports has been devastating to this industry, which is technologically among the most advanced in the world.

Figures for employment, the number of hours paid and the actual wages paid to production and related workers provide further indication of the damage inflicted on the industry by imports. Between 1979 and 1982, employment of these workers had declined by more than 5,000. The number of hours worked by production and related workers dropped by over 40 percent in stainless steel firms, and by almost 50 percent in the tool steel segment of this industry. This translates into over $100 million less in wages paid in 1982 than 1979.

Nonetheless, these figures cannot reflect the hardship and suffering imposed upon the specialty steelworkers, their families and their communities as a result of these lost jobs and wages.

Many of these employees have been forced to rely on unemployment compensation, and a significant number have been laid off so long that they have exhausted all available benefits, without being able to find new jobs. As the jobless rate has soared and the wages have plummeted, small communities whose economies are based on the revenues generated by the specialty steel plants have been severely affected.

Our Government normally measures the injury caused by unfairly traded imports in terms of lost jobs. However, long before appreciable numbers of jobs are lost, there is the loss of the ability to do research and development; loss of the capability to install new technology; loss of the ability to train people in new skills; and more difficulty in attracting bright new people to the industry.

In effect, there is a significant reduction in the industry's ability to invest in its future. Without such an investment, there can be no hope for even the remaining employees in this industry.

I join my colleagues in strongly urging the President to reverse this tragic trend that has cost us so dearly in human resources. An effective retraining program for no less than 5 years is needed to halt the flood of unfair imports which has brought this industry and its workers to their knees.

We are joined in support of this position by the specialty steel industry itself, and its workers. Labor and management, together, are asking for assistance so that they can continue to compete in this important industry.●

Mr. HEINZ. Mr. President, again I want to remind all Senators that it is only in a very few days that the President will be making up his mind on what kind of relief to grant to our specialty steel industry. It is absolutely critical that the President make the right decision, that he go further than the International Trade Commission has recommended.

● Mr. MATTINGLY. Mr. President, I wish to associate myself with the concern being expressed today by my able colleagues about the American specialty steel industry and its workers, who deserve all our attention and our support.

I do not need to dwell very long on the importance of this domestic industry and the value of its highly skilled workers. The American specialty steel industry which accounts for only 2 percent of all steel tonnage but 10 percent of its value, produces the high-strength alloys and other specialty steel products vital to many other industries of our national economy. It is used in the manufacture of roller bearings, stainless tableware, rifle barrels, nuclear powerplants, and ocean-going ships.

In addition, the specialty steel products produced by this very competitive American industry are essential to all branches of our Armed Forces. The Navy needs them for its communication and navigational equipment. The Air Force relies upon these metals for its very existence since they are widely used for the construction of all aircraft, missiles, and communications and control equipment.

Mr. President, it is very obvious that the plight of the American specialty steel industry and its workers must be solved soon, because it is one of the pillars of our national industrial base and determines in a decisive way our industrial readiness.

Besides our economic and military strength being at stake in this case, I believe the specialty steel industry has made a strong case for relief for reasons dealing with trade. The American specialty steel industry has established a solid reputation for its competitive status. It has made heavy capital investments to reduce costs, improve efficiency, and maintain technological leadership. For instance, capital expenditures from 1971 through 1975 averaged $60.7 million per year. During 1976–80, the industry's capital expenditures averaged $93 million per year—an increase of 53 percent.

This positive attitude of the domestic specialty steel industry and the achievements of efficiency and competitiveness have led the administration, the Congress Office of Technology Assessment, the U.S. International Trade Commission, and even foreign producers and governments to recognize that the U.S. specialty steel industry is the world's leader in process and product technology.

Despite all these efforts, the U.S. specialty steel industry is in deep trouble. Its problems are to a great extent rooted in the excess capacity of less efficient foreign producers who are owned or subsidized by their governments. The privately owned American specialty steel companies do not compete generally with private foreign steel companies, but with foreign governments and their treasuries. In that way, an efficient and modern American industry is paying a heavy price for the social, economic, and financial problems of other countries.

Personally I am tired of hearing about instances where U.S. industries suffer on account of other countries' problems. We must signal to these countries that our limits of tolerance have been reached. It is for this reason that I join my colleagues to ask the President that he grant the maximum adequate relief urged by this industry, accompanied by effective import levels.

In addition, the support this case has received in the Senate should reflect a sense of the Congress that the administration should apply and enforce our own trade laws as conscientiously and effectively as they are intended to be—and, indeed, as most other countries enforce their trade laws. The specialty steel industry case provides an excellent and appropriate opportunity for the executive branch to show that the U.S. Government will enforce its trade laws. No case is better than that of a modern and efficient American specialty steel industry to show that the U.S. Government can no longer stand the relentless destruction by unfair and illegal trade practices of a technologically up-to-date industry, necessary to our industrial backbone.

Mr. President, I ask unanimous consent that a fine article, published in "33 Metal Producing," January 1982, be printed in the RECORD. It explains very well how technologically innovative the American specialty steel industry is and focuses also on the problem of damaging imports.

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

THE STAGE IS SET: WILL SPECIALTY STEEL PREVAIL?

Six years and millions of dollars later, America's stainless and tool steelmakers are embroiled in yet another struggle to reclaim their market from predatory marauders. What more can be done?

Given the opportunity and incentive, the specialty steel industry of the United States will act. History evidences that fact. You

need look no further than the past decade when the sector pumped massive amounts of capital into new facilities and advanced technology, expenditures all keyed to enhance productivity.

Industry leaders, in concert or one-on-one, boast that the American specialty steel sector stands as the world leader in technology, advanced equipment and alloy development. And few, if any, challenge that claim. In fact, a plethora of studies, among them a report issued by the Office of Technology Assessment of the United States Congress in 1980 have concluded that major investments in advanced technology—such as the argon oxygen decarburization process and continuous casting—have made this country's stainless and tool steel community a highly competitive industry.

To be sure, many of the investments made through the '70s were mandated as a survival tactic to help combat the tides of rising imports. A reoccurring threat, imports are just as clear and present a danger today as they were in 1971 and 1972 when the industry filed and won dumping cases against France and Sweden. A quick perusal of the record indicates, however, that duties were neither levied nor collected.

In 1975, the nation's specialty steel industry filed and won its landmark 201 Escape Clause trade case. A year later, President Gerald Ford established quotas covering the majority of specialty steel imports from members of the European Economic Community and Sweden and negotiated an orderly marketing agreement with the Japanese.

At that time, the industry "promised" that if sanctions were indeed imposed against imports, it would make the required investments to modernize and attempt to keep price increases within reason. And that pledge was kept. The record shows that specialty steel did indeed increase its capital expenditures, raise its research and development budgets and pace its price increases at a slower rate than those of steels which were not subject to the sanctions.

Since 1976, for example, Allegheny Ludlum Steel, Pittsburgh, has accomplished what it characterizes as the "most significant technological and economic changes that have ever occurred in the history of the company." Added to A-L's production corps during the half-decade since then were argon oxygen decarburization units, a continuous caster and induction furnaces, which had a dramatic impact on the cost of producing iron to supply the BOF and a myriad of other improvements. More than $100 million was invested to reduce costs, enhance quality and maintain technical leadership. And Allegheny Ludlum was not alone.

As part of an aggressive $400-million investment program geared to expand capacity by 50%, officials for Carpenter Technology, Reading, Pa., announced plans last summer relating to three major projects totaling some $165 million. Included are a $112-million hot strip mill to be installed at CarTech's Reading, Pa., plant, a $46.4-million GFM Model SX65 rotary forging machine and additional melting equipment (two VARs and two ESRs) also slated for installation at Reading, and a $6.6-million finishing facility at its Bridgeport, Conn., plant. "When this expansion effort is completed," Paul R. Roedel, president and CEO, comments, "our specialty metal manufacturing facilities for our product forms will be among the most sophisticated in the free world."

At Washington Steel, Washington, Pa., President Robert E. Heaton cites the installation of a continuous slab caster, hot strip mill and an AOD vessel. Just two months ago, the company started up a new anneal and pickle line which has already improved production efficiency, added much needed finishing capacity and boosted product quality.

Meanwhile, in Midland, Pa., the Crucible Stainless and Alloy Div. of Colt Industries installed a pair of ultra-high-power electric furnaces to replace its blast furnace and coke ovens. "Each 85 kVA EF features a 170-t capacity and is computer controlled," Charles Kurcina, senior vice president, manufacturing services, explains. The division is currently installing a $2 million strain-draw furnace for quenching and tempering hot rolled bar products.

Further north—in Syracuse, NY, to be exact—Warren T. Bickerton, president, Crucible Specialty Metals Div, reports the productivity thrust there has focused on various bar finishing improvements—specifically centerless grinding—geared to improve quality and increase output. One of the sector's smaller members, Braeburn Alloy Steel, a division of Continental Copper & Steel Industries, Inc, Lower Burrell, Pa., has also been pounding the expenditures trail. The major installation added there is a high speed billet coating line. According to Hugo G. Becker, president, the line uses arc-sprayed aluminum to prevent decarburization in bar rolling and annealing and thereby significantly improves the billet-to-finish bar yields. Becker estimates the line has lifted yields 7 to 10%

MANAGEMENT PHILOSOPHY: CONTINUITY AND CHANGE

Basic management philosophy governing the dynamics and direction of Specialty Steel USA did and didn't change during the decade of the '70's. Traditionally, the domestic specialty steel sector has been acknowledged as quicker to adopt new technology than its counterparts in the carbon steel arena. This has not changed.

Reasons cited to explain this character trait vary considerably. William E. Lusby, manager, strategic planning, Stainless Steel Div, Armco Inc., Baltimore, Md., for instance attributes the sector's high speed technology adoption rate to the rapid growth in demand for specialty steels here in the US and the industry's response to the profit opportunity such a swell presents.

Claude F. Kronk, vice president, specialty steels, Jones & Laughlin Steel, Pittsburgh, sees it another way. "In many cases," Kronk contends, "corporations in the specialty steel industry are involved exclusively in this business; they are not subsidiaries or divisions of larger corporations. Within those organizations," he continues, "capital is usually used for expanding and upgrading existing specialty steel facilities rather than having to compete with capital projects from totally different businesses."

Relative size and a tight focus on goals also won their fair share of mentions. "Technical support for the mill has always been more closely aligned with pinpointed targets within the market," Edward J. Dulis, president, Crucible Research Center, Pittsburgh, comments. "Smaller volume from generally smaller facilities has meant faster implementation of change in both product and process. Change is easier to implement in the specialty steel industry," Dulis reasons. "Initial capital investment for development specialty products and processes is generally smaller simply because the operation is likely to be smaller," he says, "at least at the outset."

Change comes in a number of guises, not all inferring innovation. "The industry is beginning to shake-out, and a degree of specialization is becoming more dominant," John L. Stewart, senior vice president, Cyclops Corp, Pittsburgh, addresses the restructuring of the domestic specialty steel sector. "At one time," he reflects, "we were proud to make any alloy in any form for any market for any application. We took on all challenges that came down the road."

Seconding that notion is Alan M. Smith, president, Universal-Cyclops Specialty Steel. "What has been going on subconsciously has developed into a very conscious movement," Smith comes straight to the point. "Inherent weaknesses in organization, facilities and capabilities are all being examined. Instead of the supermarket approach," he contends, "each company is moving down a separate path towards specialization. The total overlap of products between companies is becoming minimal. You sort of have vertical product towers rather than a pyramid pattern," Smith analogizes.

Shake-out, of course, doesn't always mean specialization. It can also reflect a company's decision to withdraw from the marketplace entirely. Late last year, for example, Bethlehem Steel, Bethlehem, Pa., a major tool steel producer, announced its decision to completely withdraw from that particular market. Imports were cited as the overriding reason. Then there's restructuring via acquisition, à la the Stainless Steel Div. of McLouth Steel, Detroit, Mich., which was recently purchased by Jones & Laughlin Steel. According to J&L's Kronk, the addition of the McLouth facility (which is known as the Detroit Plant) will allow the Pittsburgh-based steelmaker to become more deeply involved in strip production.

IMPORTS: ONCE MORE WITH FEELING

Reminiscent in tone and substance of the trade situation suffered through the early 1970s, today's struggle against imports is nonetheless threatening for being familiar. Charges of dumping and unfair and illegal imports fill the air as they did a decade ago. "When the quotas expired in February, 1980," Allegheny Ludlum's Simmons recalls, "the imports of specialty steel sheet, strip and plate continued to decline. In fact, in 1980," he continues, "imports of these products reached the lowest levels they've been in fifteen years and at a time when we had no protection whatsoever. As a clear measure of our ability to compete, coupled with the foreign producers' charge that they weren't going to ship their product to the U.S. because the price was too low," Simmons explains, "imports were held in check."

Then, the familiar lament. "When the economies turned down around the world," Simmons says, "the Europeans and, to some degree, the developing nations, once again intended to use our markets to export their unemployment." The charge by the specialty steel industry is simple: unfair imports through dumping or subsidies by foreign governments are systematically destroying this competitive and efficient sector of American industry.

"If we are efficient, if we are technologically advanced, if we are competitive," Simmons asks rhetorically, "will we be successful? Should we invest? If we can be destroyed by the less efficient not the more efficient, would we invest?"

While the industry ponders the question of investment, it, too, is being pondered as an investment. It has happened before and it could happen again. Corporate takeovers of additional specialty steel concerns by a larger company and/or nonsteel producer loom as very real possibilities.

How will the specialty steel sector of the year 2000 compare to its 1982 predecessor? There are those who predict a deeper transition, a sea-change, of sorts, brought about by the interplay of positive factors ranging from quotas and market stability to healthy profits. "The larger will get larger," one knowledgeable specialty steel executive predicts, "several of us will be absorbed by other specialty steelmakers and there'll be takeovers."

Any way you cut it, the future of Specialty Steel USA is written in change not only in terms of the technology it adopts and the marketplace it serves, but also in the basic structure of the industry itself. Transition is definitely the watchword of the 1980s.●

Mr. DENTON. Mr. President, I join my colleagues today in urging the President to take strong action to counter the unfair foreign trade practices that are eroding the market share held by our domestic specialty steel industry. If market share continues to decline as precipitously as it has in the past several years, the United States may very well be left without a domestic industry capable of servicing its basic defense needs. I do not believe that an effective, modern defense is possible without a healthy specialty steel industry.

For example, one of the most important applications of specialty steels is in power generation. There is not a single major powerplant in the country that does not depend upon specialty steels for rotors, bearings, shafts, transformer tubing, or gears. Similarly, the Nation's telephone switching equipment utilized millions of integrated circuits employing large amounts of controlled expansion alloys. Furthermore, no aircraft in use today, or planned for production in the future, could be considered safe without such critical high-strength components as hydraulic lines, landing gears, brakes, or bearings. Specialty steels are used in the manufacture of motor shafts and other moving parts for our helicopters and for engine, transmission, and drive components in heavy duty and off-the-road vehicles such as trucks, personnel carriers, and tanks.

Mr. President, the American specialty steel industry is a vital part of the American industrial capability and industrial readiness. The stronger and healthier the industry, the better our defense posture will be.

In a report by the Subcommittee on General Legislation of the Senate Armed Services Committee, dated March 27, 1972, the subcommittee affirmed the critical importance of the specialty steel industry to our national defense. Because of the report's relevance to our discussion today, I ask unanimous consent that an excerpt from it be printed in the RECORD at the conclusion of my remarks. I also ask unanimous consent that a table on U.S. strategic mineral dependence from the "Congressional Handbook on U.S. Materials Import Dependency Vulnerability" (September 1981) be printed in the RECORD.

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

(See exhibits 1 and 2.)

Mr. DENTON. Such critical metals as chromite, nickel, and manganese are essential in the production of specialty steel. For further information on the subject, I also refer my colleagues to the hearings on the defense industrial base conducted by the House Armed Services Committee in 1980.

Mr. President, the domestic specialty steel industry has been found by the International Trade Commission and the International Trade Administration to be an up-to-date, modern, competitive industry. In 1980, the General Accounting Office even found that the industry tends "to be the lowest cost producers for the domestic market and for many foreign markets as well."

I therefore urge President Reagan to respond forcefully to our foreign competitors unfair trade practices and provide the necessary import relief.

EXHIBIT 1

REPORT ON ESSENTIALITY OF AMERICAN SPECIALTY STEELS INDUSTRY TO NATIONAL DEFENSE

On April 7, 1972, the Subcommittee on General Legislation held hearings to examine the relationship of the specialty steels industry for the national security. The subcommittee chairman made it clear at the outset that the scope of the hearings would be confined to defense essentiality. He emphasized that it was not the subcommittee's authority to invade the jurisdiction of other committees that deal with import quotas, tariffs, and stockpiles.

WHAT ARE SPECIALTY STEELS?

Although there is no single material that is designated steel there are hundreds of materials that make up the metals industry. When speaking of specialty steels, we are dealing with only a small portion of the entire steel production. The carbon steels represent the bulk tonnage of the steel producing industry.

The specialty steels vary in their carbon content and other elements are deliberately introduced to obtain special properties for desired applications. These elements include, among others, nickel, chromium, molybdenum, manganese, vanadium, cobalt, tungsten, columbium, and titanium.

The specialty steels include stainless steels, tool steels, high temperature steels, superalloys and refractory electrical and electronic metals. The category also includes pressure and mechanical tubing of carbon, alloy, and stainless steels. The unique characteristics of these specialty metals lend themselves to many and varied applications. They are designed for use in extreme environments requiring exceptional hardness, toughness, strength, resistance to wear, erosion or abrasion or combinations of these factors.

ESSENTIALITY TO NATIONAL DEFENSE

The testimony adduced from industry and Government witnesses makes it abundantly clear that specialty steels are essential, today more than ever, in the fabrication of the major portion of our defense weapons and critical weapons systems. Moreover, these specialty steels are necessary for the proper functioning of related essential components and weapons reliability. The Department of Defense witness emphasized that "* * * no aircraft in use today or planned for production in the future could be considered safe without such critical high strength components * * *" or "* * * meet the high performance demanded of it in combat situations * * *", without the specialty designed components produced by the specialty steels industry.

The importance of the industry to our national security by the Defense Department witness was summarized as follows:

It is a common misconception that military forces alone are the sole deterrent to war. However, all of us can appreciate the fact that a nation's industrial capability and industrial readiness in case of an emergency can either strengthen or weaken a nation's military capability. The steel industry as a whole and specialty steel in particular are a vital part of this industrial capability. It is a national asset and a part of our military power that serves as a deterrent to would-be enemies.

The Department of Commerce witness had this to say.

There is no one, to my knowledge, in the Federal Establishment who believes even remotely that the specialty steel industry is not essential to our national security. We are in an age of tremendous sophistication in weaponry and other military, space, and atomic hardware. The greater the degree of sophistication the greater the need for new steel alloys. Since such is the case, it follows that there is a continuing need for a viable research and development effort to maintain weapons, space and atomic preeminence.

The representative of the Office of Emergency Preparedness (OEP) testified that:

* * * based on information available to OEP, if present downward trends in the capability to produce specific steel product continues, this situation could become a matter of concern on national security grounds.

INDUSTRY RESEARCH AND DEVELOPMENT

The testimony of industry witnesses indicates that nearly 60 percent of the costly research and development conducted by industry has been directed, in the past, toward improved specialties and high performance materials to meet the increasingly sophisticated national security needs. This, according to the testimony, is so despite the fact that Defense needs represent only a fractional part of U.S. tonnage production. Today, however, the specialty steels industry has seriously curtailed this research and development effort because of dwindling commercial markets resulting from unrestricted import quotas and foreign competition. The manpower skills developed since World War II and up-to-date technology may not be available in a period of national emergency if the industry continues to decline.

U.S. DEPENDENCE ON FOREIGN RESOURCES

As stated earlier in this report, there are many elements which are essential in the production of specialty metals such as chro-

mite, nickel, and manganese, etc. These elements also have a direct bearing on our national defense posture. The testimony reveals that the United States is dependent on foreign imports for almost 100 percent of the minerals which are vital in the production of specialty steels. The following table shows U.S. dependence on foreign sources for strategic and critical minerals. This table was prepared by the Bureau of Mines, Department of Interior. According to the Department of Commerce, the percentages shown on the table are understated because of recent sales of surplus materials from Government stockpiles.

LIST OF SELECTED MINERALS AND METALS SHOWING U.S. DEPENDENCY ON FOREIGN SOURCES IN CALENDAR 1970

Commodity	Percent of U.S. consumption from foreign sources: Total	Percent of U.S. consumption from foreign sources: By source	Quantity of net imports
Aluminum	91	Jamaica 41, Surinam 16, Australia 11, Canada 6, Dominican Republic 4, Guyana 3, Haiti 3, other 7	4,382,000 tons.
Antimony	94	Republic of South Africa 32, Mexico 20, United Kingdom 14, Bolivia 11, Guatemala 6, France 4, other 7	18,100 tons.
Asbestos	83	Canada 78, Republic of South Africa 3, other 2	649,400 tons.
Beryelium (ore)	51	Brazil 37, Uganda 4, Republic of South Africa 3, Argentina 3, Mozambique 2, other 2	4,940 tons.
Cadmium	53	Canada 17, Mexico 16, Japan 7, other 13	3,460 tons.
Chromite	100	U.S.S.R. 33, Republic of South Africa 29, Turkey 18, Philippines 15, other 5	1,405,000 tons.
Cobalt	93	Congo (Kinshasa) 52, Belgium-Luxembourg 26, Norway 6, Canada 3, other 6	6,200 tons.
Columbium	100	Brazil 58, Canada 22, Nigeria 12, Congo (Kinshasa) 2, Angola, Argentina, Belgium-Luxembourg, Burundi-Rwanda, West Germany, Mozambique, Portugal, Singapor, Uganda, United Kingdom 6.	2,860 tons.
Copper	6	Peru 2, Chile 2, Canada 1, other 1	9,900 tons.
Fluorspar	78	Mexico 60, Spain 10, Italy 6, United Kingdom, Brazil, Mozambique, West Germany, Republic of South Africa 2	1,077,000 tons.
Iron ore	33	Canada 18, Venezuela 10, Australia, Brazil, Chile, Liberia, Peru, Sweden 5	39,400,000 tons.
Lead	38	Canada 11, Australia 9, Peru 8, Mexico 4, Yugoslavia 2, Honduras 1, other 3	350,000 tons.
Magnesium	0		(31,200) tons.
Manganese (plus 35 percent ore)	99	Brazil 35, Gabon 31, Republic of South Africa 8, India 4, Ghana 4, other 17	836,600 tons.
Mercury	38	Canada 31, Spain 3, other 4	17,000 flasks of 76 lbs. each.
Mica	100	India 86, Brazil 13, other 1	5,309,000 lbs.
Molybdenum	0		(55,737,000) lbs.
Nickel	87	Canada 72, Norway 7, Republic of South Africa 1, other 7	135,000 tons.
Platinum group metals	98	United Kingdom 45, U.S.S.R. 34, Republic of South Africa 8, Japan 3, Canada 2, Colombia 2, Belgium-Luxembourg 1, Norway 1, other 2.	1,009,300 ozs.
Rhenium	7	West Germany 3, U.S.S.R. 2, France 2	210 lbs.
Rutile	100	Australia 92, Sierra Leone 8	242,200 tons.
Selenium	29	Canada 28, other 1	454,000 lbs.
Silver	27	Canada 16, Peru 5, Mexico 2, Honduras 2, other 2	34,686,000 ozs.
Tantalum	100	Canada 46, Congo (Kinshasa) 21, Brazil 17, Spain 5, Burundi-Rwanda 3, United Kingdom 2, Argentina, Australia, Belgium-Luxembourg, Cameroon, Cyprus, Japan, Nigeria, Portugal, Spain, Western Africa 6.	523 tons.
Tellurium	20	Peru 11, Canada 9	64,000 lbs.
Tin	100	Malaysia 63, Thailand 30, Indonesia 3, other 4	46,100 long tons.
Tungsten	0		[1] (18,171,000 lbs.
Vanadium	22	Republic of South Africa 13, Chile 5, U.S.S.R. 3, other 1	1,033 tons.
Zinc	58	Canada 32, Mexico 10, Peru 6, Australia 3, Japan 2, other 5	795,900 tons.

[1] Net exports largely due to Government sales.
Note: Figures in parenthesis are net exports.

Characteristic of many of these ores and minerals imported into the United States, the total import is not consumed in any one given year by the metallurgical industry. For example, chromite is consumed by the metallurgical industry, the chemical industry, and the refractory industry. 1,405,000 tons of chromite were imported into the United States in 1970 and 1,403,000 tons were consumed. Of the total consumed, the metallurgical industry used 912,000 tons of metallurgical grade chromite of which 46 percent was imported from the U.S.S.R. as shown in the following chart:

APPENDIX II.—IMPORTS OF METALLURGICAL GRADE CHROMITE FOR DOMESTIC CONSUMPTION

[In thousands of short tons]

	1960	Percent	1961	Percent	1962	Percent	1963	Percent	1964	Percent	1965	Percent	1966	Percent	1967	Percent	1968	Percent	1969	Percent	1970 [1]	Percent
Rhodesia	307	57	218	48	234	41	144	37	259	38	325	37	219	22	147	20	1					
Russia	7	1	20	4	36	6	192	49	275	42	352	27	302	29	299	40	335	47	299	39	365	41
Turkey	123	23	150	33	171	30	40	10	18	6	114	19	186	18	108	15	151	22	74	10	120	19
South Africa	80	15	54	12	101	17	18	5	64	10	119	13	184	18	95	13	74	11	143	18	87	11
Other	24	4	10	3	35	6	0	0	25	4	34	4	22	2	11	2	6	1	13	2	66	9
Subtotal	541		452		557		394		651		844	100	913	89	660	90	567	81	529	69	638	80
Stockpile shipments													115	11	71	10	135	19	243	31	160	20
Total	541		452		557		394		651		844	100	1,028	100	731	100	702	100	772	[1] 100	798	100

[1] 1970 date I.M. 146 (Department of Commerce).
Source: Bureau of Mines data (1960–69).

STATUS OF NEGOTIATIONS ON VOLUNTARY LIMITATIONS AGREEMENT

In full recognition that the principal problem facing the specialty steels industry results from circumstances outside the jurisdiction of this subcommittee, we think it proper to comment briefly on the negotiations on the voluntary limitations arrangement. In 1968 the United States entered into an arrangement with Japanese and European Common Market steel producers. The agreement was designed to moderate the flow of foreign steel into the United States by placing quantity limitations on total tonnage to be shipped by these foreign producers during 1969, 1970, and 1971. Of extreme importance was a provision in the arrangement that the signatories would not change materially the product mix of their steel exports.

According to the testimony, there has been a gross violation of this provision by foreign producers and the shift of product mix toward more expensive steels and the increasing tonnage of shipments have had a critical impact on the U.S. specialty steel products.

Negotiations are now being conducted by the State Department with a view to the reestablishment of voluntary restraints on steel exports, including specialty steels, from these countries and the United Kingdom. However, industry representatives express little hope that any voluntary workable agreement can be negotiated. Even if an agreement is reached, unless it includes mill products item-by-item the problems of the U.S. specialty steels industry will not be resolved on the diplomatic level.

CONCLUSIONS

1. Based on the testimony the specialty steels industry is essential to the national security.

2. During a period of national emergency there may not be sufficient time to train the people in the specialized and critical skills which are essential to produce the specialty metals vital for our defense requirements if the industry is not preserved.

3. The U.S. specialty steels industry is in extreme difficulty today due to the dwindling commercial market which, according to the testimony, is caused by unrestricted imports of specialty metals.

RECOMMENDATIONS

1. The subcommittee strongly urges that the responsible departments and agencies of the executive branch undertake to determine whether this country can afford to

lose the specialty steel industry and the currently available skills and technology associated therewith.

2. That the responsible departments and agencies of the executive branch maintain careful vigilance over the declining trend of the specialty steel industry and to institute corrective action, if necessary.

3. That the Secretary of Defense examine the desirability of amending the Armed Services Procurement Regulation (ASPR) to provide that domestically produced specialty metals are employed to the maximum extent in the production of equipment under Department of Defense contracts.

EXHIBIT 2

[Committee Print 97-6]

A CONGRESSIONAL HANDBOOK ON U.S. MATERIALS IMPORT DEPENDENCY VULNERABILITY

Report to the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs, House of Representatives.

TABLE 2.—U.S. NET IMPORT RELIANCE ON SPECIFIC METALS AS A PERCENT OF APPARENT CONSUMPTION

Material	Percent 1980	Percent 2000	Major foreign sources	Material usage	Increased demand expected annually through 1990, percent
Antimony	53	96	China, Bolivia, Mexico, Republic of South Africa, Canada	Flame retardant, batteries, ceramics, chemicals	3.1
Asbestos	76	86	Canada, Republic of South Africa	Pipe, floorings, roofing, friction products, insulation, coatings	(1)
Bauxite and alumina	94	80	Jamaica, Guinea, Australia	90 percent for aluminum; remainder for chemicals, abrasives, refractories	5
Cadmium	62	61	Canada, Australia, Mexico	Plating, batteries, pigments	1.8
Cesium	100	100	Canada, West Germany	R&D in MHD power generation, electronic and biomedical applications	14
Chromium	91	89	Republic of South Africa, Philippines, U.S.S.R.	Construction, machinery, transportation, paints, chemicals, ceramics	3.2
Cobalt	93	76	Zaire, Zambia, Finland	Aerospace, cutting tools electical, magnetic materials, catalysts	2.5
Columbium	100	100	Brazil, Canada, Thailand	Construction, petroleum industry, transportation, machinery	6
Copper	14	10	Canada, Chile, Zambia	Electrical, construction, machinery, transportation	3.6
Corundum	100	100	Republic of South Africa	Grinding and polishing optical components, fabricated metal products	1
Diamond (industrial)	100	100	Republic of South Africa	Machinery, transportation equipment, grinding and cutting equipment	4.8
Fluorspar	84	96	Mexico, Republic of South Africa, Spain, Italy	Steel and aluminum production, flourine compounds	2.7
Gallium	70	37	Switzerland, West Germany, Canada	Electronics	6
Gold	28	80	Canada, U.S.S.R., Switzerland	Jewelry and arts, electronics, dental, investment bullion	2.2
Gypsum	38	43	Canada, Mexico, Jamaica	Building products, agriculture	2.5
Ilmenite	47	67	Australia, Canada, Republic of South Africa	Pigments, titanium metal, drilling mud, chemicals	3
Iron Ore	22	22	Canada, Brazil, Venezuela, Liberia	Steel	1.6
Lead	E	33	Canada, Mexico, Peru, Honduras, Australia	Batteries, paint, chemicals, ammunition, construction, electrical	1.3
Lithium	E	E	Brazil, Canada, France, Japan	Aluminum production, glass, ceramics, lubricants	5.7
Magnesium	E	18	Norway, Canada, Italy, Netherlands	Refractories, magnesium compounds	1.8
Manganese	97	100	Republic of South Africa, Gabon, Brazil, Australia	Steel production, batteries, chemicals	1.6
Mercury	49	38	Spain, Algeria, Italy, Canada, Yugoslavia	Electrical, paint, chlorine production	(2)
Sheet Mica	100	100	India, Brazil, Malagasy	Electrical, electronics	(3)
Nickel	73	46	Canada, New Caledonia, Dominican Republic	Transportation, chemical industry, electrical, construction materials	4
Molybdenum	E	E	Canada, Chile	Machinery, transportation, oil and gas industry	4.2
Phosphate rock	E	E	Morocco, Netherlands Antilles, Mexico	Fertilizers, animal feed, food products	2.5
Platinum	87	83	Republic of South Africa, U.S.S.R., United Kingdom	Automotive, chemical	3.1
Potash	62	67	Canada, Israel	Fertilizer	2.2
Salt	8	5	Canada, Mexico, Bahamas	Chemical industry, highway deicing, food products	2
Selenium	40	42	Canada, Japan, Yugoslavia	Electronics, glass, chemicals, pigments	1
Silver	E	78	Canada, Mexico, Peru	Photograhy, electrical, silverware, solders	3.1
Strontium	100	100	Mexico	Color TV tubes, signals, pyrotechnics	1.4
Sulfur	13	E	Canada, Mexico	Agricultural chemicals, chemical products	4.6
Tentalum	97	87	Thailand, Canada, Maylaysia, Brazil	Electronic components, machinery, transportation	4
Tin	84	79	Malaysia, Bolivia, Thailand, Indonesia	Cans and containers, electrical, construction, transportation	(2)
Tungsten	54	74	Canada, Bolivia, Thailand, Republic of Korea	Metal working and construction machinery, transportation, lamps, electrical	5
Vanadium	15	71	Republic of South Africa, Chile, Canada	Steel and titanium alloys, catalyst	4
Zinc	58	55	Canada, Honduras, Peru	Construction materials, transportation and electrical equipment, machinery, chemicals	1.1

[1] Static.
[2] Less than 1.
[3] Decline 2.2.
E = Net exports.

Source: Data from U.S. Department of the Interior, Bureau of Mines, Mineral Commodity Summaries 1981 except for the projections to the year 2000 which were derived from data in U.S. Bureau of Mines, Mineral Trends and Forecasts 1979. This country's future dependency on imports of these materials may be higher than these figures indicate since in the eyes of some analysts, this publication's estimates of future production in 2000 are overly optimistic. For cobalt imports, dependency in 2000 was calculated using an estimated production of 10,000,000 pounds instead of the 20,000,000 pounds listed in the Bureau of Mines table.

Mr. RANDOLPH. Mr. President, I welcome this opportunity to participate with my Senate colleagues today in this colloquy on behalf of the specialty steel industry of the United States and its workers, members of the United Steelworkers of America. This industry is vital to our industrial base. Specialty steel is an essential element of our continued advancement in aerospace and telecommunications. It is critical to the maintenance of essential service such as oil and natural gas production and transportation. And workers in the specialty steel industry are among our Nation's most skillful.

The domestic specialty steel industry has been seriously injured by imports of foreign produced specialty steel. This was the conclusion of the United States International Trade Commission after its 7-month investigation of the industry's petition for the import relief filed under section 201 of the Trade Act. The petition was requested by the President following the industry's request 1½ years ago for relief under section 301 of the Trade Act.

What does seriously injured mean? It means that over 40 percent of the industry's work force has been layed off. In some plants, more than 60 percent of the labor force is unemployed. It means that many of the plants still operating are doing so on short-week schedules with a similar reduction in worker pay. Other plants have been completely shut down. Companies have filed for financial reorganization under chapter 11 of our bankruptcy laws. The companies and their workers in the specialty steel industry are suffering through the worst period of financial losses and unemployment since the Great Depression.

The most obvious question we should ask is—why is this industry being injured? And the answer, Mr. President, is that our foreign trading partners have been illegally subsidizing and dumping their products in the United States at a constantly increasing rate. Imports have captured an increasing share of the domestic market.

I believe in international trade which allows fair competition with our trading partners, and which provides relief from unfairly traded imports.

The domestic specialty steel industry is cost efficient, technologically advanced and productive. With these qualities, we might expect specialty steel to be highly competitive in the world market. However, as long as our foreign trading partners can continue to sell their products in the United States at less than fair value, our domestic industry will not be able to compete. Their actions are not only illegal under U.S. law, but under international law which these nations helped create. With fair trade practices, American specialty steel produc-

ers can compete with any foreign steelmakers.

The U.S. International Trade Commission has determined that this industry is being seriously injured by imports. The industry and its workers have asked the President to grant them a 5-year relief program, the maximum permitted by law, at quantitative levels that will be helpful. I urge the President to accept their request.

Without 5 years of relief, this industry and its skilled workers may not survive. Without this industry and its skilled workers, our Nation will lose one of its greatest technology bases. Without this technology base, we will lose our ability to compete in many other high-technology fields. With that loss, Mr. President, we can assuredly predict the loss of even more jobs. These skillful, productive workers and the specialty steel producers deserve this relief package.

Our Nation, our industries, and our workers cannot continue to sustain this recession. We must rebuild our productive capacity and put our people back to work. Faced with the most severe financial and economic conditions since the Great Depression, we cannot continue allowing illegal imports to destroy our industrial and economic base, and terminate American jobs.

The President has an opportunity now to provide relief to this hard-hit industry and its workers. I urge him to make the right decision—to grant the 5-year relief at import levels that will be helpful.

Mr. MOYNIHAN. Mr. President, I rise today to speak on behalf of an industry—an efficient industry—that has been seriously damaged by high levels of imports.

The domestic specialty steel industry has been recognized by the Congressional Office of Technology Assessment, the International Trade Commission, and the President of the United States as among the world's most efficient producers. Yet just 3 months ago the International Trade Commission found that the industry's competitiveness was being eroded by subsidized specialty steel imports, largely from Western Europe and Japan. The ITC recommended the President impose quotas on specialty steel imports so that the domestic industry might have a chance to compete fairly with foreign products. The President is to make a decision on this case by July 5; that decision could determine the survival of a vitally important U.S. industry.

The President's decision will have an especially large impact on New York, home of several specialty steel companies. One such company, the AL Tech Specialty Steel Corp. of Dunkirk, N.Y., laid off approximately 40 percent of its work force during 1982. The effect of this layoff on Dunkirk and the surrounding area was severe.

In order to provide relief to the dozens of Dunkirks in this country, I urge the President to impose a 5-year program of effective quotas. This action will be of significant assistance to one of our most technologically innovative industries and, just as importantly, to the thousands of people whose livelihoods depend on a healthy specialty steel industry. They deserve no less.

Mr. SARBANES. Mr. President, I wish to join my colleagues in the Senate who are members of the Congressional Steel Caucus in expressing my deep concern about the very serious condition of our specialty steel industry. The depressed state of this very important industry is due largely to the extremely adverse impact of rapid increases in unfairly subsidized foreign imports.

Over the last year, imports of stainless and tool steel have increased dramatically: From 150,432 net tons in 1979 to 202,547 net tons in 1982. This is an increase of over 35 percent at a time when domestic shipments declined from 1,306,264 net tons down to 841,741 net tons. This is a reduction of 36 percent since import restraints were removed in early 1980.

Mr. President, these stark facts show clearly that the specialty steel industry in our country would be faring far better during the recession were it not for the huge increase in imports.

The industry's claim that the surge in imports is the result of unfair and illegal practices by our foreign competitors was vindicated when, on March 24, 1983, the U.S. International Trade Commission determined, after a lengthy investigation, that imports of specialty steel products caused substantial injury to our industry and to our workers.

Mr. President, my own State of Maryland has felt the consequences of the unfair specialty steel imports. Two major firms, Armco Steel and Eastern Stainless Steel Corp., have experienced serious reductions in work orders, employment, and operating capacity.

Over the last year, Armco Steel has been forced to place on layoff status about 50 percent of its work force. Its production work force of 900 reached a low of 525 and its salaried employees have been reduced from 340 down to 260 during the same period. Armco's Baltimore plant has never been able to operate at more than 45 percent of capacity in the last year.

Eastern Stainless Steel has also experienced similar unemployment and its total 1,300 work force has been reduced by 300 at the lowest point this past fall. Eastern's Baltimore plant has never been able to reach more than 50 percent of its capacity over the same period.

Mr. President, both these companies are technologically sound companies as is the specialty steel industry as a whole. Armco recently added a new forging machine and horizontal caster as part of a $30 million investment to increase its energy efficiency and to improve its product quality.

During 1979 to 1980, Eastern Stainless undertook a $50 million expansion in new equipment which, unfortunately, it has not been able to utilize fully.

Mr. President, this very productive industry has kept pace with technology and is ready to produce in a climate of fair international competition. The competition is not now fair and, as the industry and the United Steelworkers contend, our workers are being penalized through no fault of their own. Therefore it is clear that the International Trade Commission's 3-year import restraint program should be extended to the full 5 years so that the industry can reach its full productive potential.

Recently I joined many of my colleagues in a letter to the President urging an adequate remedy for the specialty steel industry containing three elements: The full 5 years of import restraints, restraints that maintain imports at normal levels, and minimum import levels that are based on normal industry performance data rather than the peak levels of production assumed by the ITC. It is my hope that we can now develop a long-term and comprehensive approach to this industry which is essential to our national security and industrial economy.

IMPORTS REQUIRE SPECIAL ATTENTION

Mr. HOLLINGS. Mr. President, the complex question of the impact on a domestic industry of foreign imports again requires our special attention.

It is a serious threat when foreign industries, due to political advantage, are able to export their products to this country in quantities which destroy the livelihood of American citizens and undermine our industrial base.

Mr. President, a few examples will illustrate very clearly that our domestic specialty steel industry and its highly skilled workers do not compete against foreign companies and foreign workers but against the governments and the national treasuries of those countries.

It is well known that foreign government owned or subsidized companies do not have to meet the same disciplines of profit and capital formation required of American industry.

For example, the government-owned British Steel Corp. ran up a record loss of $1.5 billion in 1980–81 while accumulating debts of more than $8 billion. In fact, British Steel has been running huge losses for years. Nonetheless, it has expanded its specialty steel capacity substantially while

dumping its specialty steel products in the United States. In short, the British Government underwrites British Steel's losses and expands its capacity so England can export its endemic unemployment to the United States.

Another example of this kind of foreign government intervention is the ailing Belgian steel company, Cockerill-Sambre, which will get $2.1 billion in new financing in its latest government bailout. The company is currently losing money at the rate of about $20 million a month, but it keeps shipping its specialty steel to the United States at prices well below those of our domestic companies. This is the biggest threat our American industry faces. It is the subtle and concealed unfair advantage that occurs through the vehicle of government ownership and subsidization. Richard P. Simmons, president of Allegheny Ludlum Steel Corp., estimates that in terms of tonnage capacity at least 60 percent of the domestic industry's foreign competition is government owned and much more is heavily subsidized.

Foreign government owned or subsidized companies are able to sell specialty steel products in our country at prices as much as 40 percent below U.S. prices, although such prices have to result in a net loss for every pound sold. Foreign producers can price their products at levels which are unprofitable and which do not even have to cover production costs.

When the executive branch permits other countries to ship their unemployment and other social problems to the United States, this results in traumatic experiences for our steel workers. Unemployment in specialty steel mills in this country has risen dramatically, as high as 50 to 60 percent in some plants. Capacity utilization in the specialty steel industry fell to 40.6 percent for 1982. Shorter workweeks, temporary or definitive layoffs, plant shutdowns, and some companies just getting out of specialty steel products entirely—all these could be avoided if the executive branch would act more energetically in enforcing our trade laws. The United States must stop considering these matters as instruments of foreign policy and begin treating them as economic issues, which they really are.

We must come to grips with the fundamental problem I have described—government-owned industries competing against our privately owned industries. And there is no better example of this unfair practice than what our specialty steel industry has been subjected to in recent years. Here is an industry that leads the world in high technology and cost efficiency and the productivity of its skilled workers. Yet it is being driven to the wall by foreign governments.

I am pleased to join my colleagues in urging the President to show that he is ready to act vigorously in defense of any industry which has invested heavily to remain the world leader in its field. In doing so he will demonstrate that the United States is ready to press our trading partners to abide by the same laws our industries must abide by and, in the long run, this will benefit these other countries as well as our own.

Mr. MELCHER. Mr. President, I want to associate myself with the other Senators present today in what they are endeavoring to do in support of the specialty steel industry. I hope this time our efforts on behalf of this important industry and its workers will make the executive branch understand what is at stake if no action is taken to assure the long-term health of this important industry.

The problems and their causes and consequences to this industry and its workers have been with us for some time, although in the last year or so it has gotten worse. It has also struck me that since our last Senate colloquy in 1977 on behalf of this industry the executive branch has become more and more reluctant to admit that we are in need of more than a patch for a slow leak, a leak that is slowly drowning one of this country's most vital industries.

The fundamental issue in my view is still the behavior of many of our trading partners, which is characterized by foreign government subsidies, dumping, and other unfair trade practices.

Privately owned American specialty steel companies do not compete with foreign steel companies. Rather, they are forced to compete with foreign governments which own, subsidize and direct their steel industries to assure greater plant utilization and employment at home while using predatory pricing to provide markets for their specialty steel products abroad.

This subsidization robs American companies of profits, American workers of their jobs, and does great harm to the American economy. Plants have to close, companies go into bankruptcy or are forced to introduce heavy layoffs, shorter workweeks, and decreased capacity utilization—the latter was down to 40.6 percent in specialty steel in 1982. Unemployment, under pressure of excessive imports, has climbed as high as 30 to 40 percent in many plants, and some specialty steel plants have an even worse record.

Damage to workers, families, and communities has been irreparable, and for others threatens to become irreparable if no firm enforcement of our trade laws is implemented soon.

The more time we take to counteract subsidies and other illegal trade practices in specialty steel, the more our trading partners will take advantage of our lenience as they continue to dump into our marketplace. The Chairman of the U.S. International Trade Commission declared at the end of March that—

> Imports have increased during the time of our investigation * * *. There is incontrovertible evidence of serious injury to the domestic (specialty steel) industry.

Up to now the American specialty steel industry has somehow managed to be the world leader in efficiency and technology. But there is a serious question whether it can maintain that leadership without adequate relief from unfair imports. This industry wants only to compete in open, fair, and mutually beneficial world trade. But the problem is that a growing number of our trading partners, in spite of the fact that they have signed international agreements barring subsidies and dumping, simply ignore those agreements. Only strong action by our Government will correct this situation and bring back true international competition with well-defined rules that are fair to every competitor.

In the past, we have too often been the first to make concessions and the last to impose restraints. The time has come for the United States to let its trading partners know with action, not words, that in the future we intend to enforce our trade laws and see that others live up to their international agreements, too.

We have not been able to obtain results through international negotiations. There is no alternative left to us except to change unilaterally America's trade policy.

We can no longer expect American companies, our own workers, and the national economy to bear the backbreaking burden of the widespread illegal trade practices perpetuated by other countries. The time to correct this intolerable situation is now. I am pleased to join my colleagues in urging the President to take the required action to preserve the vital specialty steel industry and the jobs of its highly skilled workers.

Mr. PERCY. Mr. President, I join my colleagues in requesting the implementation of an effective relief package for the specialty steel industry; a relief package of sufficient duration which will enable this technologically advanced and vibrant industry to make the necessary investment in R&D and new plant which is crucial to maintaining the industry's competitiveness.

Despite the recent finding of the U.S. International Trade Commission that the U.S. specialty steel industry has been seriously injured by imports, the industry continues to be among the most competitive and technologically efficient in the world. This has been confirmed on numerous occasions by the U.S. International Trade Commission and the Office of Technology Assessment. Technology has been the key to this success, and the industry

continues to spend considerable funds to maintain this technological edge. For example, capital expenditure from 1971 to 1975 averaged $60.7 million per year. During 1976 through 1980, while an import restraint program was in effect, the industry's capital expenditures averaged $93 million per year—an increase of 53 percent. The industry was therefore able to maintain its technological lead notwithstanding the competition from government-owned or government subsidized foreign producers. Further, the industry continues to make major expenditures for research and development in recognition of the important contribution innovation has made to the industry's efficiency and competitive edge.

Imports continue to be a problem for the industry, however, and are continuing to increase as a share of the domestic market. Recently I heard from Mr. Russell Boettger, president of Columbia Tool Steel Co. in Chicago Heights, Ill. Mr. Boettger has sent me the latest data on imports of tool steel.

Mr. President, I ask unanimous consent that a chart provided by Mr. Boettger showing 1983 import growth be included in the RECORD at this point.

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

ALLOY TOOL STEEL: U.S. DOMESTIC SHIPMENTS, IMPORTS, EXPORTS AND APPARENT DOMESTIC CONSUMPTION

[In tons]

	Domestic shipments	U.S. imports	U.S. exports	Apparent consumption	Import penetration (percent)
1981	67,360	36,238	3,869	99,729	36.3
1982	43,997	40,057	2,405	81,649	49.1
1983:					
January	3,163	2,671	238	5,596	47.7
February	3,092	2,654	222	5,524	48.0

The role of technology in the future of specialty steel will remain important. The industry has publicly committed itself to use additional revenue generated as a result of the new import relief program to make massive capital investment and research and development expenditures in order to maintain its competitiveness. However, the long timetable for these investments and the cyclical nature of this industry demand that the relief period be of sufficient duration so as to assure domestic producers that if they continue to invest they will emerge from the relief period in a position to realize the full benefit of their investment. Without such assurance, domestic producers will not be able to justify, either to their investors or to themselves, the continued high level of investment necessary to remain modern and efficient. I therefore ask President Reagan when he issues his final recommendation that he establish an import relief program that will be in effect for 5 years. Failure to do otherwise would render the relief package essentially ineffective and would threaten the future health of a dynamic and competitive American industry. Neither the American economy nor the national defense could afford such a development.

Mr. HEINZ, Mr. President, the specialty steel industry has production facilities in a dozen States and other kinds of installations in many more. But this essential, technologically advanced arm of our steel industry is centered in my State of Pennsylvania and the citizens of our commonwealth are proud to have it there.

There are more than a score of specialty steel mills in the Keystone State and the products they make help keep our high-tech economy moving. In fact, the sophisticated alloys that went into the rockets that landed the first Americans on the Moon were made in the Pittsburgh area of western Pennsylvania. And I doubt seriously if our space shuttle, largely designed and built by another Pittsburgh company, Rockwell International, could have been as successful as it has been without the metallurgical miracles forged in the specialty steel furnaces of Pennsylvania.

The late Frank Harper, columnist of the Pittsburgh Press, published a book about 25 years ago with the immodest title, "Pittsburgh: Forge of the Universe." In it he described the key role played by Pittsburgh and the surrounding industrial area in helping America defend democracy in two world wars. If Frank Harper could come back today and witness what is being done to undermine the industrial base of the Pittsburgh region he would think he had landed on another planet where all the inhabitants had taken leave of their senses.

It is simply unbelievable that the specialty steel industry of the United States, acclaimed by all the experts to be the world leader in steel technology and productivity, should at this critical moment in our history be hanging on the ropes taking an unmerciful pounding from less efficient foreign producers.

Many of our trading partners indulge in predatory monopolistic practices that have been outlawed in this country and in international agreements for years. That they do this under the guise of government ownership of their industries or through hidden subsidies for export purposes does nothing to lessen the devastating impact upon our industries and our workerts.

The specialty steel industry in America stands as exhibit A in the long roll of evidence that proves beyond the shadow of any doubt that our industries and our workers are being victimized by illegal trade practices.

Overall unemployment in the specialty steel industry is, right now, more than 25 percent. That, Mr. President, is 2½ times the national unemployment rate. But in some specialty steel mills the rate is 50 percent—five times the national average.

The relationship of this inexcusably high unemployment to imports is obvious in a glance at the production figures for the various bread-and-butter specialty steel products over the past 4 or 5 years.

In 1979, stainless steel sheet and strip production in the United States reached 873,757 tons but by 1982 it was down to 582,289 tons as import penetration nearly doubled in the same period, from 7 percent to 13.5 percent.

Stainless plate production in 1979 stood at 145,706 tons. Last year it was 97,338 tons, a drop of more than one-third while import penetration was soaring from 5 percent to 12.5 percent.

In stainless bar the production story was much the same, though the import penetration was much worse, rising from 16.5 percent in 1979 to 30.4 percent in 1982.

Yet even these incredibly high penetration figures were dwarfed by the penetration in stainless rod, which went up from 31.5 percent in 1979 when the previous import restraint program was in place to 50.4 percent last year.

And alloy tool steel import penetration was almost as serious. It shot up from 27.3 percent in 1979 to no less than 49.1 percent in 1982 and another estimate places it as high as 56 percent. During the same period domestic shipments declined precipitously, from 94,560 tons of alloy tool steels to 43,997 tons.

Moreover, the import penetration figures for the first quarter of this year, and for the month of April, show very little abatement in import penetration in any of these product lines.

A few years ago we had 65,000 jobs dependent upon specialty steel production in the United States. More than 30,000 of them were in Pennsylvania. At least 5,000 of those jobs, and probably more, have been wiped out permanently.

Since 1975 trade adjustment assistance petitions covering 153,624 specialty steelworkers have been filed, more than half of them in the recent period, 1980 to 1982. Obviously, many specialty steelworkers have been on trade adjustment assistance two, three and even four times in the last 8 years.

I. W. Abel, Lloyd McBride's predecessor as President of the Steelworkers Union, characterized trade adjustment assistance as burial insurance for the jobs of our workers. Even though some of them seem to come back from the grave of their jobs to collect trade adjustment assistance, I know that the

overwhelming majority of these people would rather work than have to take any kind of assistance from the Government.

If true free trade existed in the world today the job opportunities for our steelworkers would be expanding, not contracting. The superior cost efficiency of the American specialty steel industry and the generally higher productivity of its workers would give the industry a commanding position in the U.S. market and in world markets as well. Yet in 1982 our specialty steel exports dropped to their lowest point, a mere 4.4 percent of total domestic shipments.

This drop was not due solely to the world recession. The import barriers erected by other nations against our specialty steel products were certainly a major factor. Brazil, Argentina, Mexico, Venezuela, and Columbia all require import permits on specialty steel and the governments set the limits. In short, they impose quotas. But in practice the Brazilian market is literally closed to specialty steel imports.

France has devised various restrictions to keep out specialty steel imports and Spain levies duties of approximately 30 percent. Korea simply does not permit imports of certain steels and Japan's customs regulations make it exceedingly difficult to penetrate that large specialty steel market.

Yet Japan, Brazil, France, Korea, and some of the others I have named are among those most vigorously opposed to this country implementing any kind of a realistic import restraint program on specialty steel imports. Their motto, it seems, is "Don't do as I do. Do as I say."

There was a myth abroad for some years that unrestrained imports helped keep prices down and actually held back inflation. Large numbers of economists preached this as gospel although they could see that prices kept rising as imports continued to go up.

The specialty steel industry, during the import restraint program from 1976 to 1980, helped explode this myth, though it still prevails in certain circles, particularly among some members of the President's Council of Economic Advisers.

A Labor Department study, "Price Behavior of Products Under Import Relief," was originally issued in 1978 and was updated in 1979 and again in June 1980. This study showed that for all the key products under import restraints—specialty steel, color television sets, nonrubber footwear, textiles and apparel—all the restraints had proved to be anti-inflationary. The prices of some of these products had risen, of course. But, as in the case of specialty steel, they had increased more slowly overall than prices for all durable manufactured goods.

I do hope this is one myth, the myth that imports fight inflation, that the President will ignore when he makes his decision on specialty steel import restraints next month.

It was America's superior productivity that gave us the highest standard of living in the world—not imports.

Indeed, our forefathers fought the Revolutionary War in part over this very issue. They wanted the right to manufacture their own products in this country. Britain insisted that it had to make the finished products from our raw materials and then ship them back to us at premium prices. Even Bibles had to be imported from Britain. The only Bibles printed in this country prior to the Revolutionary War, with one or two exceptions, were German Bibles. The English did not print German Bibles so they exempted them. But we had to buy English-language Bibles and practically all other manufactured products from Britain.

Are we returning now to this same kind of economic colonialism? I hope not. And yet if our free system does not find some realistic method of defending itself against unrestrained imports subsidized by foreign countries like Japan and others our industries, at least, are in danger of assuming an increasingly colonial coloration.

The President has a golden opportunity in the specialty steel import case now before him to strike a telling blow for our free system and against economic colonialism. He also has a chance to let America again set the right kind of example for the world to follow in the whole sphere of economics.

Ultimately, we are not doing our trading partners any favors by encouraging them to subsidize their exports to the United States. If they wish to choose uneconomic systems or practices in the operation of their internal economies; that is, of course, their business. But when they use those practices in whatever degree, to subsidize exports in order to ship their unemployment over here, then it becomes our business.

British Steel Corp. is also a good example. British Steel is owned by the British Government which is the only reason that corporation can afford to keep losing money to the tune of more than a billion dollars a year for some years now. Yet this losing company built the largest stainless steel facility in the world in the late 1970's, knowing that when the import restraint program ended in the United States it would have open access to our market. And it did. This British Steel stainless facility is presently a significant part of the increasing problem of world overcapacity of specialty steel.

The American specialty steel industry needs the full 5 years of import restraints permitted by law to give this world overcapacity a chance to adjust. It also needs 5 years to justify the expenditures it plans to make for capital improvements and for increased R&D so it can maintain its technological leadership.

The industry and its workers have made a firm commitment to implement future modernization programs. This is not just a vague promise. The companies have submitted confidential information to the President's Trade Policy Staff Committee indicating the investments they intend to make if a 5-year relief period is granted.

I am confident the industry will live up to its commitment and I am equally confident our specialty steelworkers will continue their efforts to remain the most productive in the world. The past record demonstrates they are serious about these commitments. During the last import restraint program that ended in early 1980, the industry, with the full cooperation of its workers, implemented a sweeping modernization program that enabled it to maintain its leadership position in the world. It will do so again.

However, it can only do so if the President grants sufficient relief from subsidized and other unfair imports—a full 5 years of import limitations at levels the industry and its workers can live with.

I should note that while the President is deciding this critical section 201 case there are seven other antidumping and countervailing duty cases going through the administrative process or pending in the courts, all of them involving specialty steel products. The industry has won virtually all of these cases thus far, and the ITC has confirmed injury in all but one instance.

The dumping margins and subsidy levels found by the Commerce Department have been startling. They have ranged up to more than 219 percent on some specialty steel products from West Germany, a country that many economists used to tell us never indulged in dumping.

It is perfectly obvious that dumping on a scale like this can only be possible where there are Government subsidies, however well concealed in euphemistic tax rebates or other subterfuges. And this brings us again to the primary point I want to emphasize today—the question of how industries like specialty steel can compete with foreign governments; the question of how any American company which must generate its own capital can survive against the unlimited taxing authority of government treasuries abroad; the ultimate question of whether our free economic system can long endure in a world increasingly dominated by government distortion of the market system.

Mr. President if the United States were an island unto itself, I have no doubt that our free system would thrive and grow, as it did for much of our history when we were, to all extents and purposes, such an island. But in this new world of interdependent nations where no country can prosper in isolation we must find a way to realistically compete with socialist and quasi-socialist economies or our free system will gradually go under.

The American specialty steel industry and its highly skilled workers are on the cutting edge of this challenge and we should be grateful to them for helping us draw the lines so clearly.

How do we meet this challenge? We certainly cannot meet it by surrendering technologically advanced industries like specialty steel to subsidized imports, of that I am certain.

But we can meet this challenge by enforcing our trade laws more vigorously so that our trading partners will know that they no longer can violate them with impunity as they have so often in the past and are doing at this moment.

The United States should be setting an example for other countries to follow in international trade by insisting that they observe not only U.S. law but the international codes outlawing subsidies. In the long run, it will prove much healthier for these countries to cut back and eventually eliminate their subsidies for export purposes. It may be painful for them at first, but they must realize that they cannot indefinitely sustain this uneconomic practice without going bankrupt themselves. Moreover, it is in their self-interest to have a strong, economically viable America as a friend, rather than an America whose industrial and defense base has been undermined by their unfair trade practices.

A few years ago the Harvard Business Review published a chart adapted from the Economist of London showing graphically the degree of subsidization or government ownership of 11 key industries in 18 industrialized nations. A quick review of this chart shows how far advanced the world is down the road of socialism.

By alphabetical accident the United States winds up down at the very bottom of this chart. But we would also qualify for this position by measure of the degree of socialization in this country as compared with all the others. Only our Postal Service is Government owned, as are all the others in the world. And only about 25 percent of our railways and electric power industries are now State owned, whereas almost all other countries have government ownership of these two industries.

However, all the other eight key industries surveyed are still owned by the people in America, whereas in other countries most of them are owned by governments.

So here we are down at the very bottom of the heap, shoring up the economy of the industrialized world with our free economic system. What our trading partners should ask themselves is how long can America carry this burden without breaking its own back?

And that is the critical question President Reagan should ask himself before he makes his decision on import restraints for the specialty steel industry of the United States and its thousands of hard-pressed workers. He has a unique chance in this decision to help strengthen our free system and to roll back the creeping tide of subsidization and other nonmarket practices that is gradually engulfing the world economy. I know my colleagues join me in urging him to make the right decision for this industry, for our country, for the world.

Mr. President, once again, I ask all Senators who are concerned about this to read the letter that I placed in the RECORD. That letter will be sent to the President this Friday, June 17. I have described the content of that letter.

We have 25 signatories so far. It is my hope that a significant additional number of Senators will want to sign that letter, and I invite them to do so.

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

RECOGNITION OF SENATOR HOLLINGS

The PRESIDING OFFICER. Under the previous order, the Senator from South Carolina is recognized for not to exceed 15 minutes.

Mr. HOLLINGS. I thank the distinguished Presiding Officer.

PROFESSIONAL TEACHER GRANT PROGRAM

Mr. HOLLINGS. Mr. President, what I am about to suggest can be termed radical. And yet, before one jumps to dismiss this as pure politics, I ask that you please think on it. I have thought on it for over 30 years. In 1950, I chaired the study on education in the South Carolina Legislature which instituted a radical sales tax program of construction, transportation, the certification of teachers, and doubling their pay. For three decades, I have wrestled with school budgets, State and Federal programs, the local effort, the categorical Federal programs, and served on numerous boards of institutions of higher learning. I have been in the debates, pro and con, of Federal aid, of local and Federal control. I know the politics and the concerns of the National Education Association, of the American Federation of Teachers, of the National School Boards Association, of the American Association of School Administrators, the Parent Teacher Associations, the Council of the Great City Schools, the American Association of Universities, and many others dedicated to quality in education. I have worked with them and been recognized by them. I know the needs of our children and the worry of the taxpayers. The public school system of America is an American success story. But 4 years ago, when we instituted the Department of Education, we failed to follow through with a comprehensive Federal program to continue this success story. America's schools have been losing their competitive edge, and 5 years ago, were about to lose their support. The majority of the Senate was prepared to give general aid to the private schools while blaming the local schools for not doing better. And we are faced with that threat today.

Now comes an explosion of studies and interest. It is almost impossible to open the newspaper, or turn on the radio, or listen to a politician without hearing that something is dreadfully wrong with public education.

And what you hear, almost incessantly, is that Johnny cannot read, Mary cannot write, and teacher cannot do either. The indictment generally focuses on the notion that teachers are inadequate or worse, and that if we could give all the teachers a test to identify the bad ones and weed them out, we could improve education overnight.

We all know that America's educational system is in bad shape. The parents know it, the school boards know it, the school administrators know it, the teachers know it, even the students know it. But this is a time for everyone to pull together to improve the system, not search for scapegoats.

The plethora of new reports on the condition of public education documents the problems. You have already heard about the National Commission on Excellence in Education, the National Task Force on Education for Economic Growth, and the Report of the 20th Century Fund. Between now and Christmas, there will be 20 more national reports describing our educational ills.

These reports perform a distinct public service in focusing attention on America's most crying need. We are at last beginning to think about education and talk about education.

These many studies propose many programs to improve education—more homework, longer hours, a longer school year, improved curriculum, more teaching training, better discipline, more student loans, programs for gifted students, programs for master teachers, programs for adult illiterates. There is one suggestion

common to each of these studies and one flaw common to each of them. The common suggestion is for a better teacher. The common flaw is the failure to propose a national effort for a better classroom teacher.

There are two root causes for education's ills. The first root cause is that teaching in the United States of America is not a profession. Do not misunderstand. The teachers' relationship with students is professional. They care about students. Teachers have studied for a long time in order to be effective in helping them. Yet teaching is not a profession. Teaching does not enjoy the characteristics or privileges of a profession. Teachers do not control their work. Teachers do not control the curriculum or the tools of their trade. In many places, teachers cannot select their own textbooks. Teachers do not have individual "clients." They do not enjoy the status or the remuneration of other professionals. In many places, teachers do not have the right to represent themselves on such professional matters as wages, hours, job security, or even the length of the schoolday. The teaching profession does not exist. Education will not—cannot—improve substantially in this country until teaching becomes a profession—until teachers come to enjoy a responsibility over their professional tasks.

The second root cause is that teachers have been underpaid for over a century. This was accepted for most of the century because of the status of women. But now that women have been liberated, many who could be talented teachers are being paid twice a teacher's salary in the private sector. Philosophically, all of us have resisted Federal involvement in teacher pay. But today we have "A Nation at Risk." There is a national crisis. This national crisis warrants a national solution. The States and local communities are without adequate resources. Only the Federal Government has the resources to insure that teaching can become a profession. Teaching will not—cannot—become a profession unless and until the Federal Government makes a commitment to upgrading teaching into a true profession.

There is a way. Years ago, Albert Einstein told us the way when he said, "A society which pays its teachers less than its plumbers, will have neither good teachers nor good plumbers." I propose a Federal grant to increase the base salary of every full-time classroom teacher in this country by $5,000. For classroom teachers in schools with special professional challenges, such as the inner-city school, the base salary increase would be double that sum.

The grant of $5,000 would be distributed on a per-teacher basis to each school district. This assistance would be used for the purpose of extending a classroom teacher's regular school-year contract to a full year's contract.

To be eligible for the professional teacher grants, each State must create a professional teacher commission responsible for regulating the teaching profession within the State. The commission would be composed of classroom teachers, administrators, school board members, and the teaching component of higher education. The classroom teacher representation must be substantial and representative of the teachers of the State. Each State's Governor would select members for the commission from lists submitted by the major State education associations. The commission would establish the standards for entry into teaching; it would be responsible for hearing cases related to misconduct; it would have the power to coordinate and approve in-service programs in much the same way that State coordinating commissions operate for higher education under section 1202 of the Higher Education Act of 1965.

The time under a full-year contract would be used to improve educational programs by providing instructional opportunities for classroom teachers. They could attend local in-service programs, develop curriculum, lesson plans, attend summer sessions at universities and colleges whose teacher education programs are accredited, conduct original research, pursue an advanced degree, meet the requirements of State certification in additional subject matter areas or competencies, or any other instruction-related activity. This across-the-board proposal would be limited to full-time classroom teachers. Moreover, the local district would not be allowed to use these funds to replace existing or future State or local funds for teachers' salaries.

This approach has the advantage of upgrading education by a quantum leap. It goes a long way toward making teaching a profession. Professionals are people who are paid before they are thanked and teachers are neither paid nor thanked. If we want good classroom teachers, we will have to pay for them. It is as simple as that. It must be emphasized that decisions about this plan would remain local decisions.

Of course, there will be those who call this proposal a giveaway. Is it a giveaway to pay doctors five times more than the average? Or is this a surefire way of insuring we have the best medical care in the world?

Is it a giveaway to pay plumbers more than unskilled laborers? Or is this a surefire way to encourage the development of labor skills?

Why then is it a giveaway to insure that classroom teachers are merely brought up to the same salary which is enjoyed by the average wage earner?

The basic problem in education, I repeat, is that the top 10 percent of educated talent in this country—classroom teachers—are in the bottom third of salaries of all wage earners.

No corporation could survive by paying its most educated employees progressively less than its other employees. It should not be surprising that a Nation which has institutionalized such a policy toward its teachers should find itself becoming, ever more rapidly, a "Nation at Risk."

There will be those who charge that I am trying to buy the teachers' vote—that I am throwing money at the problem. Thirty-three years ago, when I authored what is now a $720 million education program in South Carolina, they charged that I was throwing money at the problem. Later, as Governor, when I increased teachers' pay 38 percent and instituted technical training, they accused me of throwing money at it. Two weeks ago, when I increased the education budget $1 billion, I was accused of throwing money at it. Today, we have a national defense problem and the Federal Government spends for defense $241 billion. Today, we have a national education problem but the Federal Government effort is limited to $15 billion. Increasing this to $29 billion is not extravagant. Last week, we threw $32 billion at America's agriculture. It must be remembered that we are throwing $33 billion at the MX missile. We are throwing $40 billion at the B-1 bomber. Upgrading education in this country seems to me to be worth at least as much as one weapons system. The Commission on Excellence in Education's submission has been costed out at a figure in the range of $50 billion. Central to these recommendations is the quality of the teacher. Rather than race off in all directions and wrangle between entities for the responsibility, the one single contribution that the Federal Government can make at this time to positively implement its own recommendations is the $14 billion professional teacher grant program.

Some would accuse me of going in two directions: Freezing the budget on one hand and increasing the budget for education on the other. My preference is for a budget freeze. I have fought for this for 2 years. But the President has prevailed with his extravagant deficits; and the issue in Washington today is not how to cut the deficit. It is how to spend the deficit. We are into the matter of program priorities, and I am going to fight as hard as I can for the Nation's highest priority—the rebuilding of America's public education.

As I submit this proposal today, President Ronald Reagan is in Albuquerque submitting his proposal of merit pay for teachers. His approach

assumes some teachers are deserving and others are not and this is a Federal problem. He reasons that if you raise the pay of the merit teacher, those fighting for the pay raise will develop quality. He ignores the fundamental need for a professional teacher. All of us would favor a merit pay increase for a professional teacher. But first we must professionalize teaching in America. Only then can we provide a competent professional for every classroom. President Reagan assumes that his is a redhot idea. He assumes that local boards have never tried it; certainly they do not need money for it because he makes no provision for Federal funds for the merit teacher program. He exhorts the teachers, parents, school authorities to all turn their attention to merit with local funds. Every school administrator in this land has tried this at one time or another. Of course, with the shortage of funds, they have had to take from the less meritorious and underpaid in order to increase the meritorious and, almost immediately, quality has diminished rather than increased.

But for the sake of argument, let us assume that the Federal Government has just instituted a pay supplement for, say, the top 20 percent of the best teachers in the country. How long would it take for the remaining 80 percent to become merit teachers? When would the merit teacher reach Awendaw, S.C.? It would probably take a decade or two for the 80 percent to develop merit. What happens in the meantime to the 80 percent of the children who are not being taught by a merit teacher? Amid this divisiveness and discord, how long would it take for quality to develop? I am trying to be realistic. We must give the President his due. What the President fails to realize is that there is a merit pay program in this country. It is called private, free enterprise. The average classroom teacher with 12 years' experience today receives $17,000. Any industry would pay an individual of that competence at least $25,000. Further, if individuals could be targeted with the President's program, industry would no doubt look to this as a resource for further hiring. The President's program, ironically, would accelerate the drain of talent from the classrooms.

We should reward the merit teacher and recognize the master teacher. But the national emergency in education mandates that we professionalize teaching by putting all of our classroom teachers on a full-time professional basis with the requirements of a profession and the pay of a profession. In short, it should be a Federal policy to find the classroom teachers of America deserving as professionals. Our children deserve no less than a professional classroom teacher and my program assures that one will be available as quickly as possible.

Let us bring the public schools into perspective. Free public education has been busy for most of the years of this century doing exactly what society asked it to do. Since the days of Horace Mann, the mission of American education has been to provide every child with the chance for an education. American education was not asked to provide quality; it was asked to provide equity and the best quality which was consistent with equity. But equity—access to an education by every child—was the first priority. So, the critics of American education—and the harping politicians who are now trying to exploit the issue—should not be surprised that the achievement of equity often came at the expense of quality.

How could it be otherwise? Expenditures for public education have never been adequate to insure that every child had individual attention. And even the best public schools have had to endure reduction in quality as they opened their doors to an ever-increasing number of students from increasingly diverse social and cultural backgrounds. This opportunity, this equity, is the glory of education. Our society is the first in history to provide educational opportunity to each and every child. Yes, American free public education was the first to add "opportunity" to education, and the first to add "equal" to the word "opportunity." Free public education is an American invention, and so is educational equity. The fundamental premise of America is that any person, regardless of birth, can rise in our society, according to his or her talent, industry, and achievement. And the kind of ideological attack we are witnessing on public education today is an ideological attack on a free and open society.

Now the challenge is building quality. We must have quantity and quality simultaneously. Only by fusing quality with quantity can we keep ahead of our international competitors in business and military technology. Only by fusing quality with quantity can we insure that children with learning disabilities, have an opportunity—as well as a right—to be all that they can. The teachers' job, for the remainder of this century, is to fulfill that educational objective. As they seek that objective, their job will change. Instead of dwelling with mass education, classroom teachers will be dealing with individual instruction on a mass scale. Classroom teachers will be called upon to design individual learning programs for each child. Instead of being hired help, they will be recognized as competent and important professionals.

It is the classroom teacher's manifest destiny as a professional, as it is our manifest destiny as a nation, to insure that each and every child has the opportunity to develop that individual ability to the fullest.

In order to get this great and worthy job accomplished, classroom teachers must act as professionals. A profession must have pride in itself and pride in its work. Classroom teachers need to be professionally active for growth and change and learning new ways, because the knowledge explosion coming into the classrooms in the next few years will be unprecedented. It is going to be hard keeping up.

Elihu Root years ago stated: "Politics is the practical art of self-government and somebody must attend to it if we are to have self government. * * * The principal ground for reproach against any American citizen should be that he is not a politician."

Every major educational decision is a political decision. Adequate funding for education is a political issue. Sustaining a teaching profession is a political issue. Above all, the creation of a teaching profession is a political issue. Political involvement is essential in achieving the right to practice the profession.

When the Japanese militarists prepared Japan for war, they did so by taking over the curriculum. They required that mathematics had to be taught by teaching ballistic trajectories and literature had to be taught by teaching Bushido military values.

When Hitler took over, he began by persecuting teachers as well as Jews.

When Third World countries have a revolution, from the left or the right, it is teachers who are the first victims.

This should not be surprising. Radicals of the right and left recognize teachers as their natural enemies. This is because teaching requires moderation as a precondition for the effective practice of the profession.

Let me repeat that: Teaching requires moderation in order to be teaching.

Teachers are presently in the political doghouse because this administration has no more use for moderation than for the people who practice it. Under the circumstances, to be politically inactive is equivalent to being unprofessional. A profession which is based on moderation, but is politically inert, will not remain a profession for long. It was Shakespeare who wrote:

There is a tide in the affairs of men,
Which, taken at the flood, leads on to fortune,
Omitted, all the voyage of their life
Is bound in shallows and in miseries.

Shall the public schools of this land be bound in shallows and in miseries? Or shall we take the tide at the flood? This is education's tide. This is education's time. This is its hour. The country has awakened to the realization that its future is in the public schools. If we start now—if we seize the oppor-

tunity we now have to develop quality in education—we can preserve this last best hope of Earth. Let us go to work.

SUPPLEMENTAL APPROPRIATIONS, 1983

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 3069) making supplemental appropriations for the fiscal year ending September 30, 1983, and for other purposes.

The Senate resumed consideration of the bill.

FIRST EXCEPTED REPORTED AMENDMENT, PAGE 6, LINES 14-17.

The PRESIDING OFFICER. The pending business is the first excepted committee amendment, page 6, lines 14-17.

The PRESIDING OFFICER. The Chair, in his capacity as the Senator from Georgia, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER. The pending question is the first committee amendment.

Mr. HATFIELD. Mr. President, that means we now have the supplemental back on the floor to consider. I believe this is the fifth day that this bill has been pulled, yanked, twisted, and turned around for various and sundry reasons. If there are those who are listening on the so-called squawkbox in their respective offices and Members of the Senate whose staff may be on the floor or within hearing distance, I wish to make a very urgent plea to each of those Senators who may have an amendment that he plans to offer on this appropriations measure to contact the floor and make certain to be here on the floor to offer it. I wish to make one thing very clear, that I shall not hesitate to call for third reading on this bill if we get to the place where we are going into an inordinate number of quorum calls and where Senators say they cannot present their amendment until 3 p.m. or until 2 p.m.

It is now 10 minutes to 11 of the fifth day that this bill has been on the floor. I have every intention of exercising my prerogative, as one of the managers of the bill, to call for third reading if there are no amendments that are being offered.

I note the Senator from Colorado is on the floor at the moment to offer an amendment that is listed on our list of some 8 or 10 amendments. I am going to instruct staff at this time to call each of the authors of the amendments that have been planned to be offered and indicate to those Members that those amendments will be called up in immediate order following the presentation of the Senator from Colorado. I am very hopeful that they will be here on the floor to offer them. If they are not and we can get no other Member to offer an amendment, then I shall call for third reading notwithstanding the number of amendments that we have been given an indication are going to be offered.

Mr. President, we cannot continue this kind of process with any kind of reasonable logic. It is illogical to let this thing continue, on and on. We have to get to conference. I have been horsewhipped and every other way to get these bills out on the floor as soon as they come over from the House, the 1984 bills. We have to clear the deck because we have 1984 bills being reported out now as of yesterday. We had the HUD bill reported out, we shall have other bills the rest of this week and the first of next week and they have to take their place on the agenda as well.

I just wanted to make that statement today, urging Senators please to cooperate in order to complete this bill.

Mr. BAKER. Mr. President, I absolutely and totally support the chairman of the Committee on Appropriations in his remarks, in his request, and in his admonition to Members. They had better come over here and offer their amendments, because after the Metzenbaum amendments are disposed of and after the committee amendments are disposed of, if there is anything like a hiatus in the proceedings third reading is going to come swift and sure.

Legislation by convenience on these appropriations bills is not going to be the order of the day. We are going to pass these appropriations bills if it is humanly possible to do so. I have pledged before and I reiterate now my pledge to the chairman of the Committee on Appropriations that I am going to try to move heaven and Earth to see that he passes all of those appropriations bill before the Fourth of July.

What that means, Mr. President, is that some people are going to get upset, some people are going to be inconvenienced, some people are not going to get to offer their amendments, some people are going to be surprised. But we are going to pass these bills. If they are serious about their amendments, they had better come over here and offer them.

I do not care whether they are in committee or whether they are committed downtown or if it is inconvenient to come. The convenience of the chairman of the Appropriations Committee and the ranking minority member is paramount, because they have a heavy responsibility to deal with this matter promptly.

I urge Senators who may hear me in their offices and their staff to understand that we are not kidding, that we are going to pass these things and if the authors of the amendments are not on the floor to act, they may never get to act.

Mr. HATFIELD. Mr. President, I thank the distinguished majority leader for his very strong and enthusiastic support for the proposition of getting this bill completed.

Mr. President, I instruct the Chair now on behalf of the managers to lay aside temporarily the committee amendment and the Metzenbaum amendments—there is unanimous consent for that, I believe—in order that the distinguished Senator from Colorado may offer an amendment.

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

The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I say to the distinguished chairman I sort of ambled over here this morning to offer my little amendment. I am absolutely convinced, after hearing the chairman of the commitee and the majority leader that this is the finest time I could have chosen to present my amendment on this floor provided I am prepared to do so with great dispatch, and I am.

Mr. BAKER. If the Senator will yield, he never ambled at a more propitious time.

AMENDMENT NO. 1387

(Purpose: To provide for continuation of the repayment contract of the Dallas Creek participating project at the Upper Colorado storage project)

Mr. ARMSTRONG. Mr. President, in the spirit of this morning, I send an amendment to the desk on behalf of myself and Senator HART and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) for himself and Mr. HART, proposes an amendment numbered 1387.

Mr. ARMSTRONG. I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

On page 35, between lines 5 and 6, insert the following:

"In accordance with the repayment contract for the Dallas Creek participating project of the Upper Colorado River storage project, entered into January 14, 1977, and entitled "Re-Payment Contract Between the United States of America and the Tri-County Water Conservancy District", the portion of the costs of such project, includ-

ing interest on construction costs, allocated to muncipal and industrial use which exceeds $38,000,000 shall not be reimbursable.".

Mr. ARMSTRONG. Mr. President, this is the Dallas Creek amendment which we discussed last week. I see no need to elaborate on the discussion which we had then. I think we had a good discussion on it late last week. The issues were defined. I wish to make a couple of observations so those who followed the discussion last week will be informed.

First, the question was raised about the budgetary impact. I raised this question with the Congressional Budget Office and have received a report from the Budget Office indicating there is no budget impact.

Second, I make the point that this amendment merely confirms a repayment contract with water users which was negotiated by the prior administration and is supported by the present administration; changes the contract in no way; has no budgetary impact according to CBO; sets no precedent because the contract is unique; has, in its essence as S. 662, been approved by the Senate Energy Committee; and is already contained in the House-passed version of this measure. I do not see this as a controversial matter. I hope others will not.

I should explain the reason why, in light of all I have said, we think it is necessary to have this confirming language. We do not think this amendment changes the legal status of the water users. What we do think it encourages is that anybody who might be dreaming of a lawsuit to challenge this contract will not do so because if they file a lawsuit, they will succeed not in overturning the contract but in delaying construction of the project, with probable cost escalation.

With that word of explanation, I ask my colleagues to support the amendment.

Mr. METZENBAUM. Mr. President, will the Senator from Colorado yield for a question?

Mr. ARMSTRONG. I am very happy to do that, Mr. President.

Mr. METZENBAUM. The Senator from Colorado indicated there will be no budgetary impact. Is that a fact as far as the future is concerned?

It is my understanding that CBO has addressed itself only to the first 3 years. Am I wrong about that? I actually have not seen the CBO report.

Mr. ARMSTRONG. Mr. President, I am very happy to respond to that question. Since the report of the Director of CBO is very brief, I shall take just a moment to read it. It is, in essence, a single paragraph. The operative paragraph is as follows:

This bill reaffirms the provisions of the repayment contract for the Dallas Creek participating project to specify that the portion of costs allocable to municipal and industrial use which exceeds $38 million shall not be reimbursable to the federal government by the Tri-County Water Conservancy District in Colorado. It is not expected that additional receipts would have been realized in the absense of this legislation, because the original repayment contract specifically set $38 million as the maximum reimbursable obligation of the water district. Thus, it is estimated that no budget impact will result from enactment of this legislation.

There is a paragraph ahead of that and a paragraph behind it, but that is the essence of the CBO.

Mr. METZENBAUM. I understand the CBO's response, and I appreciate the Senator from Colorado reading it into the record. This is not new legislation. This is not a subject to which we have not addressed ourselves previously. It is my recollection that it was a matter of some dispute in the last session of Congress. At that time I had some reservations about it, because it seems to me that the real reason for the legislation is that there is a real question as to whether or not that additional $35 million will not have to be paid by the actual users of the water, notwithstanding the language in the contract. If there were not that question, we would not have this legislation on the floor of this Chamber and the legislation in the House.

I think it is bad public policy. I think that it is an instance where we are assuming a Federal obligation that will undoubtedly cost $35 million because that is the amount of the overrun. I think that it should not be. I have some question as to the propriety of the legislation being on this particular bill. I do not intend to raise a point of order, I do not intend to raise the question of germaneness, nor do I intend to ask for a rollcall vote. But I do not support the position of the Senator from Colorado. If he is prepared to put the matter to a voice vote at the present time, I will be satisfied if I merely have an opportunity to indicate my opposition orally.

Mr. ARMSTRONG. Mr. President, that is entirely satisfactory to me. So Senators will appreciate it, the gracious statement the Senator from Ohio just made is a followup of private discussions we have had, and I understand completely his concerns. I believe and indeed I am convinced that the future course of events will show that his concerns are not well founded. But in any case, I think we have reached a meeting of the minds on it and I see no reason to have a rollcall under the circumstances. I am ready for the question if other Senators are.

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

The amendment (No. 1387) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. ARMSTRONG. I thank the Chair and the Senator from Ohio.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, what is the pending order of business?

The PRESIDING OFFICER. The amendment of the Senate from Ohio to his own amendment.

Mr. METZENBAUM. The amendment of the Senator from Ohio in the first degree or in the second degree?

The PRESIDING OFFICER. The second degree to the first degree.

Mr. METZENBAUM. Mr. President, I think that the Senator from Maine is on the floor seeking recognition apropos this subject. I yield to the Senator from Maine.

Mr. COHEN. I thank the Senator for yielding. Perhaps just for the purposes of clarification I might read the amendment in the second degree so that we will know what we are about to vote on.

Mr. METZENBAUM. May we have order in the Senate, Mr. President?

The PRESIDING OFFICER. Let us have order, please.

Mr. HATFIELD. Mr. President, a parliamentary inquiry, if the Senator will yield. What is the pending business?

The PRESIDING OFFICER. The pending business is the second-degree amendment of the Senator from Ohio to his original first-degree amendment.

Mr. HATFIELD. What happened to the committee amendment?

The PRESIDING OFFICER. The last amendment laid aside is normally the first amendment which recurs.

Mr. HATFIELD. I only set it aside for the purpose of the Senator from Colorado offering an amendment.

The PRESIDING OFFICER. The Senator had set it aside by unanimous consent, and it would normally recur.

Mr. HATFIELD. Mr. President, let us get this clear right now. The committee amendment should reappear as the pending business after each amendment. I only set it aside for the purpose of one Senator at a time. That is what I did with the Senator from Colorado.

Mr. METZENBAUM. May I point out to my good friend from Oregon that I believe my amendment was the pending business yesterday and never had been set aside, so that it continued to be pending, as I understand it.

The PRESIDING OFFICER. All the amendments were set aside yesterday, the Senator from Ohio, the Senator from New York, and the committee amendment. Each amendment recurs in the inverse order that it was set

aside. That is the precedent of the Senate.

Mr. HATFIELD. The Chair is mumbling. I do not understand what the Chair is saying. Will the Chair speak up?

The PRESIDING OFFICER. The last amendment set aside always recurs.

Mr. HATFIELD. The last amendment what?

The PRESIDING OFFICER. Set aside always recurs, which would have been the amendment of the Senator from Ohio.

Mr. HATFIELD. Mr. President, I want to get back into the proper order so that the committee amendment becomes the pending business. Will the Chair instruct the manager of the bill how to put the body in that position?

The PRESIDING OFFICER. Call for the regular order.

Mr. HATFIELD. Regular order, Mr. President.

The PRESIDING OFFICER. Regular order is the first committee amendment.

Mr. HATFIELD. Now, Mr. President, I ask unanimous consent on behalf of the managers of the bill that the committee amendment be—I instruct the Chair on behalf of the managers of the bill to lay aside the committee amendment temporarily so the pending business may be the amendment of the Senator from Ohio.

The PRESIDING OFFICER. The amendment is laid aside. The question is on the amendment of the Senator from Ohio.

METZENBAUM AMENDMENT NO. 1382 TO AMENDMENT NO. 1360

Mr. STEVENS. Mr. President, it is my understanding that there is now pending before the Senate another amendment offered by the Senator from Ohio; is that correct? I am looking at amendment No. 1382, which I understand is an amendment to amendment 1360; is that correct?

The PRESIDING OFFICER. There is a second-degree amendment to the first-degree amendment.

Mr. STEVENS. Mr. President, I would like to direct a question to the Senator from Ohio. His amendment provides that:

> None of the funds appropriated by this act shall be used by an agency of the Government to indemnify any persons or pay any attorney fees in connection therewith, pursuant to any contract with the United States entered into on or after June 14, 1983, unless awarded prior to June 14, 1983, for amounts paid by such person to the United States by reason of any action of the Internal Revenue Service.

I understand it was primarily aimed at the Department of Defense. Is that correct?

Mr. METZENBAUM. Its primary direction is the Department of Defense, but if the Department of the Interior should decide to sell and lease back Yellowstone National Park, the prohibition on indemnification clauses would be equally applicable.

Mr. STEVENS. Does the Senator have any indication as to how many contracts have been entered into that were awarded prior to June 14? As I understand it, there is a condition here that if contracts were awarded prior to June 14 but entered into after June 14, there could not be any reimbursement by action of the Internal Revenue Service.

Mr. METZENBAUM. The language with respect to contracts having been awarded but not yet having been actually signed came about by reason of an inquiry made by the majority leader of the Senate. He indicated that in Tennessee contracts had been awarded and all of the paperwork and all of the understandings had been arrived at, and the only thing that had not been finalized was the actual signing.

The Senator from Ohio is particulary concerned about putting a stop to this practice. I might say that I am joined in that endeavor by the Senator from Kansas, the chairman of the Finance Committee. I have some reservations and problems with respect to contracts already signed and contracts that are awarded but not yet signed, but my real concern has to do with putting a stop to the practice until such time as a committee of the Congress determines that this is or is not the right program or practice to follow.

Mr. STEVENS. Let us put it right back where it started; I am disturbed by the scope of this, obviously. We have a lease contract for a Navy vessel with the price for the lease partially dependent upon an investment tax credit which the builder and lessor of the vessel intends to obtain, and the contract provides that if the Internal Revenue Service turns down an investment tax credit, that loss of benefits comes out of the computation and the lease payments would increase.

Is this what the Senator is talking about—that kind of contract?

Mr. METZENBAUM. Yes and no. The "yes" has to do with the fact that I am talking about that kind of Navy contract; but "no," I do not believe, to the best of my knowledge, that any contracts provide specifically as the Senator from Alaska has described the matter. I believe that what they provide, in the main, is that if the lessor is unable to obtain all the tax deductions invisoned by the tax shelter, then the Navy or such other Government body—Air Force, Army—will provide for indemnification of the lessor; and if the lessor decides to contest the issues with the IRS, the Government agency will also pay for the cost of the attorneys to fight the IRS.

Mr. STEVENS. Mr. President, I am perfectly willing to try to work this out with the Senator from Ohio, but the precise situation is that our committee has insisted that the Department of Defense secure the advantage for the Government of any tax consideration that has been entered into on behalf of the people who deal with the Department of Defense.

If there is investment tax credit, if there are accelerated depreciation deductions that come to a person contracting with the Department of Defense, those benefits must be passed on to the Government and deducted from the lease cost.

Those contracts provide that in the event the IRS disallows the benefits, they will then have a recomputation of the lease amount or the purchase amount.

The original impetus came from our committee to make certain that the tax advantages that come to people who deal with the Department of Defense in particular are, in fact, passed on to the Department of Defense.

The impact of the Senator's amendment will make it a one-way street, that if the IRS acts adversely to the lessor or to the provider of the services to the Department of Defense, the lessor has no opportunity to recover the loss.

In other words, the net effect of the Senator's amendment is going to increase the cost of doing business for the Department of Defense, because contractors will not be willing to enter into agreements which we have forced through past actions of the Appropriations Committee. I think the Armed Services Committee has been involved in this, too.

I understand that the Finance Committee is looking at the whole ramification of the tax advantages of persons who deal with the Federal Government. We have already done that, I think, successfully in the Department of Defense.

As a matter of fact, I held up the vessels that I think caught the Senator's attention, and there is a provision in the bill that deals with the specific vessels. I held those up last year so that we could study them and determine if the leases were to the advantage of the United States.

We also have language in the bill—if the Senator will look at page 16—dealing with the whole question of leases or options for contract extension or renewal of vessels, aircraft vehicles, through lease, charter, or similar agreement. We are monitoring this situation very much.

I am of the opinion that the Senator's amendment deals with the Finance Committee aspects of items that no one on the floor really understands. No one knows what contracts, in fact, have been awarded which may deal with this very question of actions by the Internal Revenue Service.

The difficulty is that the indemnification comes about only when the In-

ternal Revenue Service denies the person doing business with the Department of Defense the advantages which were thought to be available under the tax laws and were included in terms of the lease or charter agreement.

I say to the Senator that we are chartering aircraft now. The Navy intends to charter aircraft to train navigators. The charter costs assume tax advantages that will come to the operator of the charter. I would expect it still would be less than buying the planes and putting people into the Navy and paying retirement pay and all the costs that go along on a full lifetime basis to provide the training we need for navigators.

The real problem is that I think the Senator's amendment goes too far, and that is the position I am in. I think the Senator from Maine may want to accept it but we are the ones who are going to be in conference on this.

I understand that the Armed Services Committee is going into it. It affects the merchant marine also, and we are looking at that aspect.

I believe that in terms of the charters I am familiar with, for vessels and aircraft, the provisions in the existing contracts are for the benefit of Government. The action that will come about as a result of the Senator's amendment, should it become law, would be that the people doing business with the Government will not enter into contracts that have the provisions that require the Federal Government to get the advantage of any such deductions, if it is a one-way street for people doing business with the Government.

I invite the Senator from Ohio to further modify this amendment in a manner that reflects the concept of a two-way street—in other words, that it would apply only to such situations where the contract did not provide that the advantages would be passed on to the Government.

In effect, it would then leave the person doing business with the Government in the same position as he would be if the IRS does its job correctly.

I think the Senator is looking for the person who is going to get a windfall by virtue of an IRS ruling. We are looking to the situation where the price to the Government is calculated on the basis of the IRS determination. If that is done, I say to the Senator that the cost to the Government in terms of revenue lost or the funds paid out would be identical.

Mr. METZENBAUM. Mr. President, I point out to my good friend from Alaska that these ships that have already been leased could be bought for $178 million each. They are going to cost $415 million to the Federal Government by reason of the leasing arrangements; $210 million of that comes from the cost of tax writeoffs over a period of 25 years. It comes right out of the Treasury.

With respect to the matter of indemnification, I point out that the Air Force has advised us—and I want the Senator from Alaska to be certain to hear this—that they are not using the indemnification clause in their contracts. So that, obviously, there is no real need for the indemnification clause to be in.

Many of these sort of leases are made by people every day of the week in the corporate world, and they do not provide for tax indemnification.

What we have here is a situation where one arm of the Federal Government is indemnifying a private lessor against a tax claim by the IRS. The sad part about it is that, regardless of how much the Navy might possibly save on one of these deals—and there is no real saving; in fact, there is tremendous cost, as I have already indicated—the private investors will be taking money back from the Federal Treasury far more than the Navy even claims it could save. The Joint Taxation Committee has said that the leasing route will cost 12 percent more than to make the purchases.

My amendment has one purpose and one purpose alone. Originally, I wanted to knock out the present leases that have been executed. I am not certain if I would or would not have prevailed.

But then it was urged upon me that that would be unfair, that it would not be right to put in jeopardy private people who did business in good faith with the U.S. Navy, so I backed off of that position.

I then felt that the main objective of my amendment should be to put a halt to this practice until such time as Congress may spell out specifically that it approves of it. And I feel certain that it will never come to that conclusion because it is too costly.

The Senator from Kansas, the chairman of the Finance Committee, has in this Chamber indicated that he supports this amendment and has indicated that he will go further with legislation on this whole question of government bodies selling their assets and then leasing them back.

In this case we do not have a sale and a lease back. We have a straight out lease.

But he has indicated plans to address this issue and he yesterday voted with me on it. He has publicly indicated his support for my position in connection with this matter, and I hope the Senator from Maine, who has looked into this issue and I know has a concern about it, with his committee, will proceed forward on this subject in order to bring about the appropriate resolution but in the interim we will call a halt.

I yield to the Senator from Maine.

(Mr. PRESSLER assumed the chair.)

Mr. STEVENS. Wait a minute. I want to finish this dialog myself, Mr. President. If the Senator from Maine has a question, I am happy to allow him to have a question.

But I think that the Senate should understand that the Senator from Ohio as a member of the Judiciary Committee and the Senator from Kansas as the chairman of the Finance Committee have an obligation to bring a finance bill here to the Chamber, if that is what they want us to consider.

This is a supplemental appropriations bill, and this amendment ties up any money in this bill for the purpose of indemnifying or paying any fees in connection with any contract where the amounts that are to be paid are derived by reason of the action of the Internal Revenue Service.

Believe me, the Finance Committee should go into this. What about State or local taxes? What about passthrough provisions that are in the lease contracts?

The problem is that the Senator from Ohio and the Senator from Kansas do not know what is in this bill that deals with the Department of Defense. I think we do. If they want to have some Finance Committee provision that deals with this question let them come up with it.

Let me tell you about the leasing of these vessels because I looked into it. As I said, I held them up for some 5 months myself. The net cost to the Government, notwithstanding, is over a period of years for 25 years the Navy will pay $415 million for each TAKX vessel. But that cost is $131.7 million when discounted back to present value.

Mr. STEVENS. Those vessel costs were demonstrated by the Department's analysis. This contract is to the advantage of the Government because the discounted value of money over 25 years is less than the present value. The $131.7 million is the discounted lease compared to $178 million to buy them. We would have had to borrow the money. Mr. President, we are in a deficit situation. We would have to borrow some portion of this purchase price and pay interest in excess of 10 percent a year for 25 years.

Now, the net effect of doing that as compared to leasing them and having a private operator lease them to the Navy with the tax advantages that come to a private operator means that it costs less for the Department of Defense, depending on whose formula we apply.

I was concerned that it may cost more for the Government as a whole because of the revenue loss coming about from tax deductions.

The GAO studied this issue and determined that there is an advantage to the Government to do business in this manner.

Under those circumstances it was let go, but we still are studying the matter. I still have some concerns about the impact of this leasing practice, as does the Armed Services Committee. I will yield the floor here in a minute to the Armed Services Committee representative, the Senator from Maine. But I want the Senator to understand that in conference it will be the Appropriations Committee people who are dealing with this with the House of Representatives, and I believe need a better understanding as to what the Senator wanted to do not just in terms of the Navy but of other Federal agencies and perhaps the railroad aspects. I know something about the Alaska Railroad and so does the Senator from Ohio. But the Alaska Railroad does not have the tax advantages that private railroads do. Private railroads can use investor-owned cars and equipment, and there is a tax advantage to a private operation to have that come about because again of the investment tax credit and other things. I am sure the Senator knows of some of those shelters that are there.

If the Senate adopts this amendment we should make certain that this is not a precedent. This provision should cover only those contracts which did not provide for a two-way street; did not provide that the price to the Government would be reduced by the tax advantage; but would be increased in the event the IRS denied the tax advantage where the calculated price for the lease took into account the investment tax credit or accelerated depreciation but provided for increases should the IRS deny the tax advantage. Then I would have no problem with it.

Again, the GAO concluded that the option to purchase or lease is a wash, and I think the Senate should understand the current arrangement results in a wash. There is no disadvantage to the Government. There is no advantage to the lessor or charterer, and vice versa, if the contract is specific. The net effect of what the Senator's amendment will do will be to take away the advantage that will occur to the lessor or charterer in the event that the tax incentive is denied and, therefore, would mean they would not enter into the kind of contract we have demanded.

(Mr. PRESSLER assumed the chair.)

Mr. STEVENS. Because of the seven committees that are looking into the whole question of how to deal with the problem of tax advantages when dealing with the Federal Government, I think we should not do this.

If the Senator from Ohio wants to modify this amendment in the manner I have suggested I withdraw my objection. But I hesitate to accept this so long as it does not take into account the kind of contracts that deduct the value of tax benefits.

Mr. COHEN. Mr. President, I would just like to address a couple of comments to the Senator from Ohio. Yesterday, I raised a question as to whether we should proceed, and offered a motion to table his amendment in the first degree principally because of the lack, I think, of understanding on the part of many Members as to what we were getting into because there were seven committees, it is my understanding, seven committees of Congress now examining the benefits of lease-charter versus buy agreement and indeed the whole issue of indemnification.

My own Subcommittee on Sea Power and Force Projection has been holding hearings and now is engaged in a markup dealing with this very issue. I think we have to separate out what the Senator from Ohio is not dealing with, the issue of lease-charter versus a buy arrangement on the part of the DOD at this point and that is a separate issue, and I think it is an underlying issue nonetheless because we deal with the indemnification proceeding.

Generally speaking, we have a situation now where we have a contractor we need on a ship on a rapid basis, we cannot wait for it to be constructed, we engage in a lease arrangement. We have long- and short-term leases and that is an important distinction as to whether it is a 5-year cutoff of goes beyond 5 years. In terms of what impact it is on procurement funds and operation and maintenance, all of those are complicating issues. But basically someone who might lease to the Government may lease at a lower than market value rate because he is anticipating getting certain tax advantages, whether investment tax credit, accelerated depreciation, and the contracts have, in fact, provided for a lower payment from the Government to him, anticipating he is going to get those tax advantages. In the event the IRS rules against that particular contractor, then the Government has agreed to indemnify the difference between the fair market value of what we are paying plus the attorneys fees. That is a policy question, should we do that as a matter of policy? I suppose my own recommendation would be, for example, perhaps we should rewrite that or invert it so that we pay a higher fee or, namely; the fair market value up front and in the event the IRS agrees with the accelerated depreciation or the investment tax credit, you will get lower payment accordingly. There is no indemnification in that regard and we have a lower payment made by the contractor at the latter part of the contract itself. It achieves the same goal.

There is a problem with that in my own mind; namely, if we are paying a higher fee up front to reflect the fair market value and the IRS rules against the contractor, saying "You are not entitled to those tax advantages," whether or not he had an incentive to repeal it, to get it reversed, since he has a higher value up front, that is another issue. I think the Senator from Ohio at least raises a valid point as to what should be the policy on the part of the Government in dealing with lease versus buy; whether indemnification or whether we should pay the fair market value up front without dealing for reimbursement of IRS rulings.

I would just read to the Senator from Ohio the kinds of recommendations we are making in our subcommittee dealing with the lease-purchase situation so he would at least rest assured we are looking at this seriously, trying to take it into account. The committee has reached the following conclusions on the charter versus buy and lease versus buy controversy—this has not been agreed to by the subcommittee, I might add, or the full committee but these are my recommendations: First. Additional guidelines are needed to assist future charter versus buy, lease versus buy decisions not only by the DOD but other departments and agencies.

Second. The acquisition of assets for long-term charter-lease arrangements which are operated by operation and maintenance accounts is the direct substitute for the use of procurement funds and therefore should require the same level of congressional approval as procurement programs.

We ought not to get into kind of an off-budget item, we ought not to be sustituting operation and maintenance funds for what is in effect a procurement account. So we are concerned about that.

Third. As a general rule, the long-term charter of assets will be more expensive in undiscounted terms to the Government over the total period than acquisition through procurement, not always but as a general rule this is our conclusion.

Fourth. Despite any cost disadvantages there are other considerations from the national security perspective sufficient as to timely acquisition of an immediately important capability for which sufficient procurement funds are not immediately available. That they make a charter or lease program preferable to a procurement program. There are those situations. I refer specifically, for example, to the rapid deployment force. If we have to have some ships immediately for the rapid deployment force which we could not construct or could not purchase, under the circumstances we

may agree to a lease versus a buy program.

Fifth. The use of charter or lease programs should be carefully monitored because of its potentially adverse impact on O&M accounts.

Sixth. The chartered MPS, which is the maritime pre-positioned ships, as well as the five tankers both of which are currently under contract, should proceed as negotiated by the Navy, although it should not be taken as a precedent for any other case.

There are a number of other recommendations I am making to the subcommittee and full committee on this issue so I have had this concern we not have your amendment serve as a precedent for a prejudgment.

I am not prepared at this time to say whether or not lease versus buy or buy versus lease is the best policy. It may change. I am not prepared to say at this time whether an indemnification of contractor provision in a contract should be banned, but as I understand the Senator's amendment, what he has done is confined it to those contracts that will be executed after the date of June 14, 1983, or those that are about to be signed, have already been negotiated, would not be barred by this.

You have limited from June 14, forward until the end of the supplemental appropriations period and have stated here on the floor it is not intended to serve as a precedent.

It is my understanding we have no other contracts that we are currently contemplating, at least in the seapower field or force projection field that will be affected, so maybe this will be accepted on the basis of let us have hiatus, let us have a temporary holding period, here until such time as we can decide as a policy whether or not we should always have a buy agreement as opposed to a lease arrangement or whether or not if we do have a lease arrangement whether or not we ought to have these passthrough provisions which the Senator from Alaska has rightly referred to as giving us the benefit we ought to be in position of making a policy judgment.

I am not prepared to reach a conclusion but I do say to the Senator from Ohio if it is confined to this short period with no precedential impact upon a prejudgment that the Senate is in favor of canceling all indemnification provisions, that I could accept the amendment.

That is the reason I want to reiterate to the Senator from Ohio why I offered yesterday the motion to table, not because I am necessarily in opposition, I share his concern about this, but I was not satisfied that enough committees have looked at what the long-term consequences are. I think whenever we are dealing with long-term leases we ought to leave an option to buy. I do not like having long-term leases in which we are paying out lots of money and have nothing at the end. We are trying to deal with those issues.

So I would just say to the Senator from Alaska if it is confined to this short-term period, if it does not serve as a precedent for a judgment by the Senate that we are, as a body, opposed to indemnification provisions, which I am not prepared to make, then I would not have an objection.

Mr. STEVENS. Will the Senator yield to me just about this scope: I really have no objection on the basis you just talked about if it were confined to the Department of Defense. If the Senator examines our committee report we have notified the Department of Defense that they cannot exercise long-term leasing or charter authority except when it is budgeted and when it is authorized.

Under those circumstances, the Department of Defense already has in effect a fence around it. Specific authority will be required in advance from Congress.

But I also happen to be chairman of the Subcommittee on Governmental Affairs that deals with the Post Office and with the GAO. The Post Office or GAO may have similar kinds of contracts.

The word "indemnification" in this is what bothers me, because it is my understanding, and perhaps the Senator from Ohio would clarify it for us, that the term would cover a contract payment for any of these kinds of charters or leases with the Federal Government.

As I say, I think we understand—certainly I believe the Senator from Maine knows even in greater detail than I what the Department of Defense is doing—but I understand, under this bill, what it is doing with the money we provided. I can assure the Senator from Ohio that his amendment would reinforce what we have told the Department of Defense not to charter, not to lease until they have the authority, have budgeted at least a portion of that money.

This indemnification concept to be applied to that contract area would be salutary, so long as it would have no adverse impact in the other areas of the Government.

But I say to the Senator, I would join him in saying that we could accept this if the Senator from Ohio would change that to "by an agency of the Department of Defense," rather than for the Government as a whole. I just do not think the Government as a whole has studied the myriad number of contracts that are out there that already require the passthrough, and I think this amendment could disrupt those contracts.

Mr. METZENBAUM. Will the Senator from Alaska yield for a question?

Mr. STEVENS. The Senator from Maine has the floor.

Mr. COHEN. I yield back the remainder of my time.

Mr. METZENBAUM. We are not under controlled time.

I point out to the Senator from Alaska that I have looked at the supplemental appropriations bill and on page 13 I see some reference to the matter of leasing, but that talks about agreements which the Navy has already entered into and we obviously are not dealing with that, so that is not applicable.

Mr. STEVENS. Page 16 is the language and page 36 of the report dealing with contract termination liability for leasing programs, if the Senator would read that provision.

Mr. METZENBAUM. On page 16, it refers only to those leases "that impose an estimated termination liability on the Government exceeding 50 percent of the original purchase value of the vessel, aircraft, or vehicle involved for which the Congress has not specifically provided authority in an appropriation act for the obligation of 10 percent of such termination liability."

Mr. STEVENS. That covers future contracts like the T-AKX and the T-5.

Mr. METZENBAUM. What I am saying is neither of those paragraphs, and I do not know about the report language because I have not seen it, provide the shutoff that my amendment would provide.

Now, I am frank to say to the Senator from Alaska that between last evening and this early morning session, we have already received at our office two calls from two law firms in Washington indicating that they have these deals in the pipeline ready to go and that my amendment will put a stop to them.

Mr. STEVENS. With respect to what agency?

Mr. METZENBAUM. We did ask them, but they did not want to tell us.

Now, apparently the Senator from Alaska does agree that it is appropriate that we call a halt to these deals having to do with the Department of Defense and is willing to accept the amendment if it is limited to that.

I am not clear why he would be unwilling to call a halt to the Government's indemnifying any private lessor for the tax obligations that that lessor might incur if he cannot get all of the tax benefits from the tax shelter, or if he had to pay attorneys fees.

I do not know what is happening out there. I do not know, frankly, whether or not the Interior Department or the Energy Department or the Commerce Department or the GSA, or whomsoever, may be making these deals at this very moment and we in the Congress would be totally unaware of it

and the American people would be unaware of it.

Again, as Senator COHEN has aptly pointed out, this language does not finally determine the rightness or wrongness of the leasing activity, whether it be leasing Department of Defense facilities or whether it be leasing any other Government facilities. What it does do is to call a halt to a practice that we know is being used by the Navy. I have already advised the Senator that I am told the Air Force is not following the same practice. It calls a halt to the question of indemnification with respect to tax writeoffs and indemnification with respect to attorneys fees.

Mr. STEVENS. Does the Senator's reference to indemnification cover the situation I mentioned, where a lease agreement or charter agreement specifically provides that the payment by the United States shall be based upon a figure which calculates the tax advantage to the lessor or the charterer and in the event the IRS determines that that tax advantage is not available, that payments to the United States to the charterer or lessee will increase? Is that indemnification in the Senator's mind?

Mr. METZENBAUM. Yes; it is.

Mr. STEVENS. Well, I can tell the Senator that there are a myriad of contracts. The Park Service charters buses annually. I am confident the Senator can find out that the buses that operate in Yellowstone National Park and Mount McKinley have some provision which deals with a tax advantage to the charter operator. They may have assumed a tax advantage in their costs which are passed along to the Government. You may be cutting off the advantage to the Government.

The Senator asked why am I willing to limit it to the Department of Defense. We know something about the Department of Defense. We know that in the future we have told the Department of Defense we are going to examine each one of these programs on a case-by-case basis. We have told them they have to budget in advance and get authorization in advance.

I cannot tell the Senator specifically what GSA, the Postal Service, the Department of Interior, the Corps of Engineers, and others have done. But out there, there are probably a bunch of contracts that are about ready to be signed by some agency, the net effect of which, according to GAO's review of the leasing program, is a wish.

Yet the Senator's amendment will deny the agency the authority, in effect, to enter into those because no one in his right mind that knows about the Senator's amendment is going to sign the agreement. Or else they are going to go ahead and sign the agreement and later they are going to be told that, "While we were signing, the Congress cut off our right to give you the increased payment," and you may have a few bankrupt bus operators dealing with the Park Service.

Now, I think we ought to deal with what we know. Again, if the Finance Committee wants to come out with something that can be studied throughout the Government, that would be another matter. In this area, we have studied the Department of Defense. The Senator from Maine knows what he is talking about, and he has gone into it in depth.

In terms of the provisions of this bill that deal with charters and leases, we know that the impact of the Senator's amendment would be complimentary to what we have already done. We do not know about the rest of the bill.

I would have to ask the other subcommittee chairmen on appropriations what the impact of the Senator's amendment is as far as their areas are concerned.

But I call attention to the fact that there is a considerable amount of money available in this bill for the Corps of Engineers river and harbor contracts throughout the United States. There is money in here for the Department of the Interior and substantial amounts of money for the Department of Housing and Urban Development for low-income housing.

I ask the Senator: Does he know if any of those contracts that are involved would deal with the question of indemnification in the event of an adverse IRS ruling? The Senator does understand passthrough contracts, I am sure of that.

Mr. METZENBAUM. Yes; very well.

Can the Senator from Alaska represent to this body that the Park Service contract for the leasing of the buses contains such an indemnification clause?

Mr. STEVENS. I used to be the ranking member on that subcommittee. I know that they lease a considerable number of buses in the summertime. I do not know what provision they have for requiring a passthrough of the tax advantages to the Government in the event they get new equipment. But neither does the Senator from Ohio know. That is the problem.

Mr. METZENBAUM. I will say to the Senator from Alaska that I do not think he and I are in disagreement. I think it is a question mainly of fact.

This body leases photocopying machines and we lease other kinds of equipment. Without knowing the facts, I would bet all the tea in China that there is no tax indemnification clause in the photocopy machine lease that this body has with the private companies. And I would be almost certain that there are few, if any, other governmental contracts that have been entered into that provide this kind of tax indemnification.

I will say further to my friend from Alaska that even if they do this amendment would do nothing more than smoke them out. It would make them come to the Congress and say, "We want authority." It would not cause any of those that have already been entered into to be declared illegal, if in fact they are legal now. All this would do would be to put a halt to it until the proper committees of the Congress had a chance to dispose of the issue.

In connection with the comment that the Senator from Alaska keeps referring to——

Mr. STEVENS. Let me interrupt the Senator, if I may. The chairman wants to get on with this. We are going to conference with the matter. In view of the dialog that has taken place I would be more than willing not to pursue my opposition if the Senator would understand that between now and conference we are going to check this out with the Office of Management and Budget, with the GSA, with the Postal Service, with the areas that we know do contracts with charters and leases and determine the impact on them and their programs and modify it to the extent that we are not going to permit this amendment to have an adverse impact on the programs we are providing money for. We will have people put out of work and other problems if this is something that is much broader than we understand.

I can tell the Senator that because of what we have done, as modified, and with the understanding that I understand the Senator from Maine has indicated and the Senator from Ohio has agreed to, that this is not a precedent, that we are not going to make this boilerplate in all Department of Defense bills from now on. We will examine it in connection with the general appropriations bills. But as far as this is concerned, we have an understanding that we can modify this—and we will consult with the Senator—we can modify this as far as reducing its impact.

I say to the Senator I can understand a lot more than the Senator's amendment. If he had an amendment that says anyone who obtains a tax advantage has to pass that advantage on to the Government, that is what we have done in the Department of Defense and other areas. There may be other areas where it is not passed through. But where we have done it, and that is what we are trying to do, I can understand the Senator's concern that we do it. In the Department of Defense it would have no adverse impact under these circumstances because of the provisions in the bill and in the report, as modified with the Senator and with the understanding of the Senator from Maine. I say it

will have an adverse impact unless it is modified in accordance with the comments we have received. I would be willing to take it to conference under those circumstances.

Mr. METZENBAUM. Mr. President, due to the willingness of the chairman of the Defense Subcommittee of the Appropriations Committee and the chairman of the Appropriations Committee on this amendment I will not debate this matter longer than an additonal minute. I want to make sure the record is clear on a couple of points.

I have before me the report by the staff of the Joint Committee on Taxation. It addresses itself to this issue. It indicates that the Government's cost of one TAKX leased ship is estimated to be $199 million—$20.8 million more, or approximately 11.7 percent higher, than its purchase price. Including the residual value I think it goes up to 14 percent.

But whether it costs more or not, I think it is clear that my statement sends a signal to slow down, to halt, until we get this matter resolved by the proper committees of Congress.

Having said that, let me conclude my remarks. I gather we will be able to have this amendment agreed to without further debate. I want to be certain that nothing I have said, nor anything I have implied, suggests that the existing indemnity clauses are valid. It is this Senator's opinion that those clauses are invalid, and that at an appropriate time they will be struck down by an appropriate court if the Navy fails to do that which I believe it should do. That is to refuse to abide by them should there be a claim asserted under those clauses.

I want to make it very clear that I think the clauses from the first instance were illegal.

Having said that, Mr. President, it is my understanding that this amendment can be accepted. If so, I see no further reason to use my vocal chords unnecessarily.

The PRESIDING OFFICER. Is there further debate?

Mr. STEVENS. As I stated, Mr. President, with the understanding that we are going to take it to conference and it may be modified there in accordance with the objections or comments raised by other agencies. I have nothing further.

Mr. METZENBAUM. Mr. President, my understanding is that the question before the body, the pending issue, is, Shall the second-degree amendment be adopted? Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. METZENBAUM. I ask that the Chair put the question.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 1382) was agreed to.

Mr. METZENBAUM. Mr. President, it is also my further understanding that the matter now pending before the body is only the first-degree amendment, as amended by the second-degree amendment, and that the yeas and nays have been ordered on the first-degree amendment. Is the Senator from Ohio correct in that?

The PRESIDING OFFICER. The Senator is correct.

Mr. METZENBAUM. Under the circumstances, Mr. President, if there is no further opposition to this matter, I ask unanimous consent that the yeas and nays be vitiated.

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

The question is on agreeing to the amendment, as amended.

The amendment (No. 1360), as amended, was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment as amended, was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I thank the Senator from Ohio. At this time, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll, and the following Senators answered to their names:

[Quorum No. 7 Leg.]

Baker	Hatfield	Stafford
Bumpers	Melcher	Stennis
Byrd	Metzenbaum	Stevens
Garn	Pressler	

The PRESIDING OFFICER. A quorum is not present.

The majority leader is recognized.

Mr. BAKER. Mr. President, I move that the Sergeant at Arms be instructed to request the presence of absent Senators. I ask for the yeas and nays on the motion.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Idaho (Mr. SYMMS), the Senator from Virginia (Mr. TRIBLE), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from Colorado (Mr. HART), are necessarily absent.

The PRESIDING OFFICER (Mr. KASTEN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 91, nays 4, as follows:

[Rollcall Vote No. 144 Leg.]

YEAS—91

Abdnor	Garn	Metzenbaum
Andrews	Glenn	Mitchell
Armstrong	Gorton	Moynihan
Baker	Grassley	Murkowski
Baucus	Hatch	Nickles
Bentsen	Hatfield	Nunn
Bingaman	Hawkins	Packwood
Boren	Hecht	Pell
Boschwitz	Heinz	Percy
Bradley	Helms	Pressler
Bumpers	Hollings	Pryor
Burdick	Huddleston	Randolph
Byrd	Humphrey	Riegle
Chafee	Inouye	Roth
Chiles	Jackson	Rudman
Cochran	Jepsen	Sarbanes
Cohen	Johnston	Sasser
Cranston	Kassebaum	Simpson
D'Amato	Kasten	Specter
Danforth	Kennedy	Stafford
DeConcini	Lautenberg	Stennis
Denton	Laxalt	Stevens
Dixon	Leahy	Thurmond
Dodd	Levin	Tower
Dole	Long	Tsongas
Domenici	Lugar	Wallop
Durenberger	Mathias	Warner
Eagleton	Matsunaga	Wilson
East	Mattingly	Zorinsky
Exon	McClure	
Ford	Melcher	

NAYS—4

Goldwater	Proxmire
Heflin	Quayle

NOT VOTING—5

Biden	Symms	Weicker
Hart	Trible	

So the motion was agreed to.

Mr. BAKER. Mr. President, while there are Senators in the Chamber, if I could have their attention for a moment.

The PRESIDING OFFICER. The Senate will be in order.

The majority leader.

Mr. BAKER. Mr. President, I do not like to have rollcall votes on motions to instruct the Sergeant at Arms. It is a waste of energy and I guess of time from one standpoint. But, Mr. President, I want Members to know the level of frustration in being on this bill since 10:40 a.m. this morning and absolutely nothing has happened with one exception. What has happened is there have been seven new amendments listed.

We had seven amendments remaining when we quit this bill on Friday and incidentally we stopped Friday because no one was here and there were no amendments that could be offered. Now there are 14, but no one will offer them.

Mr. President, we simply have to pass this bill. I have two things to say now if I may, and I do not like playing this role, but I have no alternative.

First, I indicated earlier we would be out at the regular hour this evening. I

rescind that. We will stay as long as we need to stay to make progress and perhaps to finish this measure.

By the way, if this goes over until tomorrow, that almost surely guarantees that we will be in session on Friday because we still must do the dividend and interest withholding repeal this week.

Second. I am going to ask the managers of this bill on both sides to try to take this bill to third reading regardless of whether there are amendments that we know of that are still outstanding.

There is no way that we can continue to wait and wait and wait for Senators to come to the Chamber and offer their amendments.

So far at this moment the amendments that I am aware of yet to be disposed of are a Mattingly-Bumpers amendment on education, a Bumpers amendment dealing with EDA, a Moynihan amendment dealing with health benefits for the unemployed, a Baker-Dole amendment perhaps to deal with pay and honoraria, a Quayle amendment dealing with park development, a Wallop amendment dealing with military construction planning and design funds, a Kennedy amendment dealing with summer jobs, a Hatfield technical amendment, a Melcher soil conservation amendment, a Jackson pay and honoraria amendment perhaps in the second degree, a Cranston-Wilson amendment dealing with EDA, a Weicker amendment dealing with pay and honoraria, a Percy amendment dealing with foreign aid, a Humphrey amendment unspecified, and an Inouye amendment dealing with—it looks like an FHA office. I assume that is correct.

Mr. HATFIELD. That is correct.

Mr. BAKER. Mr. President, that is a lot of amendments. I would hate for anyone to be cut off by us getting third reading but so that no Senator is taken by surprise they should know that that is the risk that I am suggesting they run if they do not come to the Chamber now and offer their amendments.

Mr. President, I am not a very good fishwife. I do not like doing this sort of thing. I am not a very good slave driver. But I am telling you that we are going to go to third reading on this bill if Senators do not come to the Chamber and offer their amendments, if the Senate will permit me to do so.

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

Mr. BAKER. I yield.

Mr. PERCY. I wish to express sympathy with the majority leader and minority leader and the managers of this bill.

Although we were holding hearings with Secretary Shultz this morning, I sent word to the Chamber that if necessary I would come over and offer my amendment immediately and get someone else to relieve me. I am now ready. I think it can be disposed of in a 5- or 3-minute colloquy. If the colloquy is not successful then the amendment could be offered with a time limitation of 5 minutes on each side. And I am ready to go now.

Mr. BAKER. I thank the Senator.

Mr. President, that is the full quotient of my indignation at the moment.

I yield the floor.

Mr. WALLOP addressed the Chair.

Mr. HATFIELD. Mr. President, I ask unanimous consent to set aside the pending committee amendment in order that the Senator from Wyoming may offer an amendment.

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

Mr. PERCY. Mr. President, if the Senator will yield, I was ready to offer an amendment. Could I be listed as following the Wallop amendment? Mine will not take long.

Mr. MOYNIHAN. Mr. President, will the Senator from Wyoming yield?

Mr. WALLOP. The Senator from Wyoming will be delighted to yield for the purpose of a question.

Mr. MOYNIHAN. Would it be agreeable that I might be listed following the Senator from Illinois in that same order? I think the Senator from Oregon would like to see some of these matters proceed.

Mr. BYRD. Make that request.

Mr. MOYNIHAN. I, therefore, make a request with the Senator from Oregon in the first instance.

Mr. BAKER. Mr. President, they are attempting to sequence the amendments. That is a good sign.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

The Senator from Oregon.

Mr. HATFIELD. Mr. President, we are now sequencing those who are indicating to us a willingness to be ready.

Mr. WALLOP, Mr. PERCY, Mr. MELCHER, Mr. MOYNIHAN, and Mr. BUMPERS.

I think most of these will be very short.

Mr. BUMPERS. Mr. President, will the Senator from Oregon yield in order for me to ask a question of the Senator from Wyoming?

Mr. HATFIELD. I yield.

Mr. BUMPERS. Could the Senator from Wyoming tell us how long he expects the amendment to take?

Mr. WALLOP. As far as the Senator from Wyoming is concerned 5, 6, or 7 minutes. I do not know what opposition may develop to it.

I do not think in any case it is going to be long.

Mr. BUMPERS. I have an amendment that will take about 60 seconds. I will wait until everyone gets a little further along.

AMENDMENT NO. 1388

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

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Wyoming (Mr. WALLOP), for himself and Mr. SIMPSON, proposes an amendment numbered 1388.

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

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

The amendment is as follows:

On page , line , insert the following:

SEC. . Notwithstanding the provisions of Section 113, Public Law 97-323, funds appropriated by such public law for study, planning, design, architect and engineer services for the Air Force are available for design of site-specific facilities for the MX Missile system.

Mr. WALLOP. Mr. President, I offer this amendment on behalf of Senator SIMPSON and myself. It modifies the 1983 Military Construction Appropriations Act to permit site-specific design of MX-related facilities but continues the prohibition against construction until all environmental review is complete.

Mr. President, unless this change is made now the Air Force will not be able to complete design work on critical buildings so construction can begin next year.

Our reason for offering this amendment is to allow the most efficient construction management for facilities proposed for Wyoming and Nebraska and to present unnecessary peaking of construction-related impact in our State. The amendment has no increased cost and should save money.

Let me review the history of the military construction section that we propose modifying. In 1980, when the multiple protective shelter basing mode was proposed, the 1981 Military Construction Appropriations Act contained the prohibition against "design of any site-specific facilities for the MX missile system until all terms, conditions, and requirements of the National Environmental Policy are met." At that time consideration was being given to deployment in Nevada and Utah and to split basing with some missiles in those States and some in Texas and New Mexico. This prohibition was reenacted in the 1983 Military Construction Appropriations Act which became law last fall, a few weeks before the President formally recommended dense pack deployment. At the time of passage, alternate locations were under consideration.

Since the time this prohibition was enacted, the deployment situation has changed dramatically. In April of this year, the President recommended deployment of 100 MX missiles in Minuteman silos under the command of F.

E. Warren Air Force Base near Cheyenne. Last month both the House and the Senate approved "full-scale engineering development" of the basing mode in the President's recommendation. Thus the prohibitions were written at times when alternative locations were under consideration. This is no longer the case. The Congress has approved a basing mode and F. E. Warren Air Force Base is the only location under discussion.

Adoption of this amendment does not mean that environmental and community impact questions will be neglected. Such concerns are very important to us so we would not propose an amendment that would reduce the environmental review. Several points are particularly relevant to potential impacts:

The potential impact of the present deployment plan is considerably less than previous basing modes. MX will be put in existing silos with no major hardening or silo hardening. The barometer of potential impact on the environment and on community facilities is peak year employment.

That is the basic thing that is going to affect us in Wyoming. The estimated peak year direct employment for the multiple protective shelter (MPS) basing mode was 30,000 jobs; for closely space basing (CSB) or dense pack, 6,100; and for deployment in Minuteman silos, 1,500, less then MPS by a factor of 20 and less than CSB by a factor of 4.

The Air Force has publicly committed to perform a full environmental impact statement (EIS) on the present MX deployment plan. June dates for public scoping meeting were announced last weekend.

This amendment only permits design, not construction, before the EIS is complete.

The reason the Senators from Wyoming are proposing this amendment is to reduce unnecessary environmental and community impacts in Wyoming and Nebraska. The most critical Wyoming facility for meeting the 1986 initial operational capacity (IOC) date is the assembly, surveillance, and inspection building. This facility is essential to the buildup and deployment of the nuclear weapon reentry systems. Delay of the initiation of design would make it impossible to begin actual construction during the 1984 building season. With the notorious Wyoming winters, winter construction is impossible, leaving only two building seasons instead of three until the planned IOC. Delay in design would mean either the IOC would be delayed or the Air Force would put in more men, money, and material in a shortened period, increasing total cost and increasing the impact on Wyoming communities, particularly Cheyenne. Such delay is clearly not necessary.

I would like to remind Senators from the States like New York and California of what Wyoming communities are like. Cheyenne, the second biggest city in Wyoming, has a population of 47,283. An increase above the projected 1,500 peak year direct jobs would be very significant in adding short-term impacts for a community of that size. And there would be no long-term benefit. If such an incease were necessary for the national defense, it would be tolerable, but it is clearly unnecessary.

The House Appropriations Committee has recognized the logic of allowing site-specific design of MX facilities and, in their markup of the 1984 military construction appropriations bill last week, changed the language of the section to permit site-specific design of MX facilities. Since this is a 1984 bill, design would be delayed until October 1, 1983, losing 3 critical months of design essential for beginning construction in the next season.

For those Senators who believe the proceeding with MX is unwise, let me say that there will soon be other opportunities to debate MX and to vote on funding for MX. The Speaker of the House has delayed further consideration of the Defense authorizations so votes on MX can occur after the Fourth of July recess. In the Senate, the Armed Services Committee is beginning markup of that bill. We can expect that bill on the Senate floor before the end of July. And appropriations bills will provide yet another opportunity to debate MX.

I urge you to see this amendment in the proper light, as a means to provide a more rational construction process and a means to prevent unnecessary construction-related impacts in Wyoming. The environmental restrictions passed last year, and in previous years, were designed to prevent adverse impacts on the environment and on community facilities. With major changes in the deployment mode for MX, they will have the opposite effect.

I urge you to prevent this by permitting design, and design alone, to begin now and to enhance the process of environmental review in Wyoming and to minimize the impact upon us, if it is indeed the ultimate judgment of Congress to proceed with the MX.

Mr. LEVIN. Mr. President, the Senator from Wyoming and his colleague are obviously sensitive to the environmental impact of the MX in Wyoming, and I think it is clear from the eloquence and the sensitivity of that statement that that is their principal concern. It is their belief that this amendment would lead to the conclusion that there be greater attention paid to those environmental impacts. I must say, even though I disagree with their conclusion, that I must respect that that is their motive.

It is obvious that their principal and primary concern is the environmental impact here on their home State, and I think we all ought to appreciate that and applaud it.

I have reached a different conclusion in terms of the environmental impact of waiving the existing law that requires environmental impact statements before we permit design of a site specific location or the building they are now contemplating constructing.

While I am going to raise a point of order because I do believe this is legislation on an appropriations bill, before I do that I must say in all sincerity that I commend my friends from Wyoming for their determination to protect the environment of their home State, even though I have reached a different conclusion as to how we would best protect the environment when we are proceeding with this kind of construction. I do want to commend them for their determination to protect the environment.

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

I urge the Senator to try to look at this from the perspective of the State of Wyoming. I know and the Senate knows of the Senator's long and eloquent opposition to the MX in the first place.

I think this amendment does nothing either to enhance or diminish his arguments in that respect. But if it is the ultimate judgment of Congress to proceed with MX, I urge the Senator to consider what the impact of the extra men and material will be, disregarding the cost. I think all of us have a deep feeling for this—yet I urge my colleagues to consider what impact those extra people will have on us.

We in Wyoming are no strangers to such an impact. We have been cited on national television in Hawk Springs, in Gillette, Wyo., and in Evanston most recently with the overthrust belt, and we deal with this impact better than many other States. But to put us through an impact statement that is not necessary seems to me to be cruel and unusual treatment.

It seems to me as well if you are going to do an environmental impact statement which has meaning to the community being impacted, that it would be nice to know what the facility was, as well as what that impact was going to be, so that mitigation could be taken into account in the whole process of doing what the environmental impact process intends.

On top of that, the Air Force has assured the government of my State, the Governor, and legislature, that they will provide us with an impact mitigation study which would be similar to that which would be required under State law if it was anything but a Federal entity being constructed, and in order to make that meaningful they have to have the work force, construc-

tion force, and the time of construction, as well as material and transportation needs identified in order to satisfy State requirements.

So this is not an attempt either to advance or retard the MX from the point of view of the Senator from Michigan, because that argument is still clearly on the table in front of us. This is just our attempt to do something for our people to minimize the impact of what has already been some psychological impact as well as increased demand on local school systems.

Mr. LEVIN. I applaud the Senator's motives in trying to tack this amendment on an appropriation bill. I believe we should put this environmental language in there to protect the environment against unnecessary impact of the MX or of any facility that builds it. And while I think it is important that we have an environmental impact study before we design a building for a specific site on that Air Force base to produce the warhead or to manufacture these warheads, I must say that I think the language served the purpose, that we ought to allow it to carry out that purpose, and that it is important that we have an environmental impact statement or study before we design a building for a particular location at that Air Force base. I think that is important and was contemplated and is a legitimate purpose.

Putting aside my own opposition to MX, I would think purely from an environmental point of view that that is a legitimate point. And if the Senator is correct, this would then put pressure on the environment later on, because we will be doing in 2 years or 3 years what we should be spending 3 years or 4 years to do, and that would be because of the arbitrary and artificial decision of the Air Force to proceed and not because of any action in this Congress.

We have said in the law that we believe an environmental impact study should be completed before there is a site-specific design which is made. That is presently in the law. I think it is there to protect the people, the environment. While I respect the motive and the determination of the Senators from Wyoming in terms of how they believe this may work out in the future, I must say that is not the intent of the law.

Mr. WALLOP. Will the Senator yield for just 1 minute? I can assure him of a couple of things. The design takes 12 months and the environmental impact statement will be concluded by January of this year.

Again, would the Senator just consider what information would be available to the people of Wyoming when commenting on the draft EIS if there was site-specific information and something of the dimensions and size and construction impact of that building. If we do not have that, then much of the information that will be made available to the people of Wyoming to make or to consider during the draft EIS statement period will not be available to them. From the standpoint of our people, they would very much like to have that information.

Mr. LEVIN. It should be available to them clearly at some point. But we also should know the impact on the environment of the location of a building that we are designing. I think it is also important that we know that; that we know where on the Air Force base it is being designed, because where on the Air Force base it is being designed could affect the design itself.

Mr. WALLOP. That is exactly what I am asking in this amendment. It does no violence to the concept the Senator is espousing. Indeed, it enhances it from the standpoint of our people who have to look at this.

Clearly the Senator is within his rights to ask for the point of order and I suspect the Parliamentarian will rule it should stand. But I urge the Senator not to do that, on behalf of the people of my State—not his State—who will have the impact of this building coming in their midst. They would like to have the information the design process will provide.

Mr. LEVIN. And I think they are entitled to the information. My point is that the environmental impact statement, which is required before a site-specific facility is designed, should also be available to the people. I think that if this were going to the State of Michigan I would try to do both, exactly what the Senator is doing but also require that there be an environmental impact assessment before we design the site-specific building on that Air Force base.

Mr. WALLOP. The site information is so much more important to the issue at hand from the standpoint of our people.

Mr. LEVIN. I think they are both important.

Mr. WALLOP. If we conduct a review in the abstract, the Air Force will be considering a building that could be anywhere within 7,000 to 8,000 acres. If they do it in the specific, they have specific information. The people of Wyoming can say they do not want their schools near that, or it is not in the right place, or anything else, but they could not do that under the procedure that the Senator would wish to lay on us. I urge him not to do that.

Mr. LEVIN. I think we can do both. I think we can have the environmental impact assessment before we select the site and then have an environmental assessment after we select the site. I think both of those assessments are very possible.

I appreciate what the Senator is saying that they are necessary. I think we both agree they are necessary.

Mr. WALLOP. May I ask the Senator if he would agree to something like this, so perhaps we can get the best of both worlds? Then I will not belabor this much longer. If we were to ask the Air Force, while proceeding with their environmental impact statement, if they would provide an environmental assessment, as well as identification of the site-specific problems of the building before the design is completed—because these two things need not take place in the same moment—then we would get both what the Senator seeks and what I seek. What I am trying to do is simply avoid a greater specific impact, human impact, not a military impact, of construction workers and all that, on the communities of southern Wyoming.

Mr. LEVIN. I think that impact would be avoided by the Air Force selecting a timetable or, if necessary, modifying their timetable so that impact does not occur.

I happen to agree with the Senator 100 percent. There is no justification for that impact occurring.

Mr. WALLOP. There is a national purpose to be served in setting the timetable for MX. I urge the Senator not to conduct the debate on the MX at the expense of the people of Wyoming who will have the impact.

Mr. LEVIN. I could not agree with the Senator more. They should not have an unnecessary impact imposed upon them, because the IOC of the MX is in 1988 or 1989. I happen to agree with the Senator 100 percent. I hope the Senator is successful in mitigating any impact from an artificial IOC. I would indeed support him, as he knows, if and when we decide to proceed with the MX on the appropriation bill and on the authorization bills which come up. That IOC should be set in such a way so that the concerns of the Senator from Wyoming are met. We should not have an IOC on this MX which is artificial and which, at the same time, has an unnecessary negative impact on the people of Wyoming. I do not think we have to do that. If I thought we had to do that, I must tell the Senator I would concede to what the Senator is saying.

If I felt that this decision would necessarily lead to what the Senator says in terms of a harmful impact on this State, I would relent. But I do not believe that is true, nor should it be true. There is no reason why we should tolerate that kind of impact on the people of Wyoming, nor do we have to.

I believe that we are more clearly protecting the environment by keeping the environmental impact statement requirement in the law. It was put there for a purpose. I think it

serves that purpose if we apply it to the present situation.

(Mr. HUMPHREY assumed the chair.)

Mr. WALLOP. The Senator knows it was put in there for a purpose that is quite unrelated to the present set of circumstances.

More importantly, we are only talking about a 4-month period, but that 4-month period is of great concern to the State of Wyoming. If the House version of the military construction appropriation goes through, this restriction is removed effective October 1. The 4-month delay puts on an additional burden because our winters, whose effects on construction are well known to the Senator from Michigan and since they are similar to those in his State, will delay construction for 1 full year.

I will not belabor the point any longer. I urge the Senator to consider those of us who are the most affected by these national decisions. The Senate and the House, if they go ahead with these things, may provide the IOCs which each of us would prefer not to have.

The IOC is there now and anything we do, I grant the Senator, is arbitrary. But in my opinion, the change we are proposing is just a piece of belief and a piece of information which my people would clearly like to have.

Mr. LEVIN. Mr. President, I believe the Senator is correct, that his people should have this information. There is nothing, in raising a point of order, which will prevent them from receiving that information.

All this point of order will do is to require that the law which we have on the books about an environmental impact statement prior to the design of a site-specific facility will be retained. It does not in any way suggest that the information which the Senator very correctly points out his people are entitled to before the next stage is taken will not be required.

I will be at his side on that issue, insisting that that information be available to the people. He is absolutely right.

I will also be at his side, hand in hand, in insisting that we not take any shortcuts in designing these facilities or in implementing or constructing the MX which will jeopardize the health and welfare and safety of the people of Wyoming. They are entitled to that. I hope that every Senator in this Chamber will join when it comes to protecting the health and welfare of all in Wyoming because they are all Americans, not just Wyomingites. My point is that if we require this to stay in the books, that we will not deemphasize welfare. We can require the information which the Senator has outlined, and, in addition, it will be required by law. We should not telescope the construction process to jeopardize the State of Wyoming with the impact. I think the Senator will find a majority of this Senate being united in determining that we are not going to cut corners on the construction of the MX to be an artificial IOC which will be in any way jeopardizing the people of Wyoming.

Mr. MATTINGLY. Mr. President, being the chairman of the Military Construction Subcommittee, this falls under my responsibility. I agree with the Senator from Wyoming on this point.

One, all the requirements for the NEPA have been fulfilled. I know the Senator from Michigan is perfectly within his rights to try to stop this amendment. I think if the U.S. Air Force had done their job, which they did not do, they would have been able to convince the Senator from Michigan and everybody else in here of the necessity of doing this, and also that it was legislatively correct to go ahead and everything had been fulfilled.

The U.S. Air Force just left my office some 45 minutes ago. They finally decided to come by and tell me about this issue. I told them they were a little bit late.

I just feel in defense of the Senator from Wyoming it would have helped us if they had done their job, which they did not do. I think that message was given to them very clearly some 45 minutes ago.

I ask unanimous consent to have printed in the RECORD a point paper in reference to the debate we are having today.

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

POINT PAPER ON NEED TO BEGIN PEACEKEEPER FACILITY DESIGN

Section 113, Public Law 97-323 "prohibits" site-specific facility design for the Peacekeeper missile system until the requirements of the National Environmental Policy Act (NEPA) have been fulfilled.

There is general agreement that Section 113 does not apply to facilities outside the deployment area; thus, the Air Force anticipates beginning design of these facilities soon.

There have been different viewpoints expressed regarding facility design for F.E. Warren AFB.

The DOD believes that all terms, conditions, and requirements of NEPA for site selection have been met, and, therefore, Section 113 has been complied with.

An opposing position is that the Section 113 restriction against site-specific design prohibits the Air Force from beginning any F.E. Warren AFB facility design at this point.

Repeal of Section 113 by Congress in the FY 83 Suplemental Appropriations Act and substitution of language restricting construction rather than design would dispell differences and allow timely design of F.E. Warren AFB facilities—would it (Sec. 113) apply to any other facility?

There is an urgent need to begin design now for the Reentry System Assembly, Surveillance and Inspection (AS&I) facility at F.E. Warren AFB. This facility is essential to the buildup and deployment of the nuclear weapon reentry systems and is on the critical path. The schedules for design, construction, equipment assembly and checkout, testing, training, nuclear surety and weapons buildup have already been compressed to the maximum. If design is authorized now:

Construction could begin by August 1984 which is necessary to meet the December 1986 initial operating capability date (IOC). Delay in start of construction from August 1984 (if design begins following repeal of Section 113 in the fiscal year 1983 DOD Suplemental) to November 1984 (if design begins following the fiscal year 1984 MILCON Act) could result in a three month IOC slip.

Sufficient foundation and structural work can be completed before the onset of severe winter weather to allow work to proceed through the winter months. If design/construction is delayed by three months, chances of productive construction activity during the winter months will be substantially diminished and additional construction costs would be incurred.

The maximum possible time will be available for construction. This will help minimize impacts to the affected area due to inmigration. Delaying the start of design/construction, while retaining the December 1986 IOC, exacerbates impacts by requiring the same construction activities to be accomplished in a foreshortened period.

No previous design efforts have taken place on the AS&I facility.

Given authority to begin the design process now and construction in fiscal year 1984, all fiscal year 1984 construction contracts can be awarded by August 1984.

Mr. MATTINGLY. I do not know if the Senator will back off from his request or not, but nobody wants a clearer and more protected environment any more than I do. I would just say that I think the concerns of the Senator from Michigan would be satisfied if he had the discussions that I have had in the last few days on this.

Mr. LEVIN. I thank my friend. I think all of our concerns are mutual. We are all interested in protecting the environment equally. I have no greater concern than the Senator from Wyoming on that matter. I respect Senators for their different views, although we have reached different conclusions on this.

Mr. WALLOP. If, as the Senator says, we both share the same goals, I would urge him to consider my people and whom they have asked to represent them, speak for them, and provide them with this information in a timely fashion. Of course, the Senator is quite able to do it otherwise. But this is a request from my fellow Senator from Wyoming, Senator SIMPSON, and myself that our people have what they feel they need in a process that is a little beyond their scope and reach. This amendment is just a way of providing them with a little further help along a difficult path, which we are going to do.

The Senator is entitled to make his point of order.

I yield the floor.

Mr. LEVIN. Again, I respect my friend very deeply. I believe that that information must and should be available to the people of Wyoming before any construction begins. I also believe that this provision, as stated, will require the EIS before the facility is designed. That will bring some additional information to the people of Wyoming and the people of America. That is, the location of the building before it is designed because, in fact, the location of that building on that Air Force base could affect the design. I think all that information is necessary.

Clearly, the information which the Senator from Wyoming seeks is essential; as I indicated, I think it would be a violation of law for us to proceed with construction of this facility without that information being available. But under the current law, it also requires the EIS before the site on that Air Force base for the particular facility is selected. I think that adds some additional protection. I had not intended in any way to detract, clearly, from what the law provides for information.

Based on that, I would raise a point of order, Mr. President, that this is legislation on an appropriations bill.

The PRESIDING OFFICER. The amendment of the Senator supersedes provisions of existing law and is, therefore, legislation on an appropriations bill. The point of order is sustained.

Mr. WALLOP. Mr. President, I withdraw the amendment on behalf of the Senator from Wyoming, Senator SIMPSON, and myself, and express my deep regret that the judgment of a Senator from a State not ours has been substituted for those people who represent them. I am sorry to say that, but I do believe we have not been well served by an arbitrary decision.

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

Mr. MATTINGLY. I object.

The PRESIDING OFFICER. Objection is heard

The legislative clerk resumed the call of the roll.

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

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

THE NORDEN DAM-O'NEILL UNIT

Mr. EXON. Mr. President, I am pleased that the Senate Appropriations Committee has reported H.R. 3069, the fiscal year 1983 supplemental appropriations bill, with a directive to the Secretary of the Interior to contract with the State of Nebraska to study alternatives to the Norden Dam, O'Neill unit of the Pick-Sloan Missouri basin program.

The provision in H.R. 3069 requires the Bureau of Reclamation to immediately initiate a joint, State-led study with available funds in this fiscal year. The committee has promised to provide followup funding from the O'Neill project's construction fund account for the study in the fiscal year 1984 appropriations bill.

In the interest of encouraging a prompt but thorough study, the bill language limits the study period to 18 months. State water officials have indicated that 18 to 24 months would be required for this study which would include onsite testing and data collection. The time period for the study shall commence with the execution of the contract and the availability of funding between the Bureau and the State of Nebraska. Less time may actually be required.

The bill directs that this joint Federal-State study be State-led.

Nebraska water officials have outlined a plan of study to examine the possibility of serving the designated project lands without utilizing a major reservoir. An artificial ground water recharge proposal has been suggested by the Nature Conservancy which has raised interest in this possible alternative.

This joint, State-led study, mandated by the provisions of H.R. 3069, would examine: First, the capability of the Niobrara River Valley to support well fields pumping water to the project area utilizing vertical wells of conventional design or collection galleries, so-called horizontal wells, of less common, but of proven technology; second, the potential for large-scale ground water recharge, utilizing ditches, pits, spreading basins, and so forth, in the project area on a sustained basis; third, the possibilities of directly serving some project lands where recharge may not be feasible so as to maintain the objectives of Congress and "keep the project lands whole"; fourth, to estimate the cost of the alternative project in terms of Federal, State and local outlays, out-of-pocket costs to irrigators, operation and maintenance costs, and other social, environmental, and legal issues.

Total Federal costs for the alternative study are estimated to be $100,000 according to State officials.

Mr. President, Nebraskans are at a crossroads regarding the future of the Norden Dam, O'Neill unit project. There is substantial support for the project, and, there is substantial opposition. In short, Nebraska is divided over the question of building the Norden Dam.

Last December the House of Representatives, during consideration of the continuing resolution, voted overwhelmingly to reject all funding for the Norden Dam on a vote of 245 to 144. This rejection of the Norden Dam project, by 101 votes, was soon followed by the introduction of legislation in the 98th Congress to totally deauthorize the Norden Dam project.

The vote last December in the House was significant in that a majority of both Democrats and Republicans voted against the project, as well as a majority of westerners and members of the House Interior Committee. Opposition to the Norden Dam has focused on the project's rapidly escalating costs and environmental problems.

The future of the Norden Dam project as currently proposed is dim. I have asked all interested parties to strive to agree upon an alternative to the dam which can be supported by Nebraskans and the Congress in light of the fiscal realities facing water projects and all Federal spending in the Congress.

Recognizing the need to reassess, reconsider, and reexamine this matter, I contacted our Governor, Robert Kerrey, State officials, my fellow Nebraskans in the Congress, and prominent supporters and opponents of the authorized Norden Dam project.

I am encouraged by the response to my request that Nebraskans reach a consensus on the future of the Norden Dam.

In my letter of last March I stated that it has always been my belief that there is a real need for water development and for limiting Nebraska's water outflows. It is obvious that the construction of the Norden Dam has faced formidable environmental and financial obstacles. Ever since the unfavorable vote in the House of Representatives last December, which should have rung the alarm bell of all, I have been weighing the best future course of action for Nebraska. It appears to me that we have two options: One is to ignore the difficulties and proceed on course with the original O'Neill concept while acknowledging the risk of losing all funding; or second, to seek a workable, less costly alternative that could hopefully receive widespread support.

In this March letter to Nebraska's leaders and water community, I referenced two possible alternative projects. The first was the Carns diversion alternative, researched 2 years ago by the Bureau of Reclamation and supported by Nebraska Congressman DOUG BEREUTER after a study of nine possible alternatives. The second was a ground water recharge plan which was a totally new idea, not previously studied or considered in the 1981 report for Representative BEREUTER.

This second alternative was, as I mentioned, brought to my attention by the Nature Conservancy. Recognizing the need to provide water for north central Nebraska, this plan, called the Niobrara River water development plan, proposes to obtain, deliver, and store the waters of the Niobrara River in an innovative and creative manner. As a substitute for the Norden Dam, Reservoir, and extensive canal networks, the plan proposes to place a well field in the Niobrara River alluvium pumping approximately 9 months of the year and recharging the ground water basin beneath virtually the same project area served by the Norden Dam, O'Neill unit, according to the Nature Conservancy. In addition, conservancy spokesmen have estimated the cost/benefit ratio to be 3.78 to 1, compared to 1.32 to 1 for the Norden Dam. The projected cost of the well field proposal is estimated to be $96.5 million compared to the Norden Dam now estimated to cost in excess of $370 million.

The ground water recharge proposal to be studied by the State of Nebraska could save the Nation's taxpayers a quarter of a billion dollars. Furthermore, the proposal would eliminate most of the environmental objections, according to the conservancy, and yet provide most of the irrigation benefits of the authorized project.

Alternatives which will save taxpayers' dollars and preserve much of the Niobrara River's instream flow, stand a much better chance of acceptance in our current climate. With Federal budget deficits looming ahead in excess of $200 billion annually, we must seek more cost-effective ways to meet our water needs as well as all other Federal expenditures.

Limited Federal dollars will challenge our creativity and require new thinking and innovations to meet our future water needs. This is a challenge which I believe Nebraskans, who are vitally dependent upon water to support agriculture, are ready and willing to accept.

In order to meet our water demands in the years ahead we must move forward boldly in seeking less conventional methods to develop needed water supplies. We must let loose the old and tired notions of the past in searching for new solutions to these water needs.

My letter of March 10, circulating the ground water recharge alternatives to Nebraska's leaders, has stimulated considerable discussion of the possibilities of a less costly, less environmentally objectionable alternative to the dam both privately in correspondence to me, as well as in an endless number of news accounts across the State of Nebraska. Many are pleased and support an alternative and some do not. Some simply prefer a dam and reservoir or nothing at all, and are completely unwilling to consider alternatives as well as the Norden Dam.

Others, Mr. President, have raised legitimate questions about the feasibility of the ground water recharge proposal, with a willingness and open mind about reviewing possible alternatives to the Dam.

On March 17, Mr. J. Michael Jess, director of the Department of Water Resources for the State of Nebraska wrote to Gov. Robert Kerrey discussing the nature conservancy's alternative. He told the Governor that the conservancy's proposal was "innovative and has viable elements," and that "it is worthy of further pursuit by the Congress and the States."

On March 22, Governor Kerrey responded to my inquiry and suggested that "a formal review of this approach would yield valuable results and should be initiated by the appropriate Federal agencies. It is important for us, as Nebraskans, to work together to achieve our common goal of developing and utilizing our water resources."

On April 19, Governor Kerrey requested that the State of Nebraska undertake a study of the proposed ground water recharge alternative citing the need for "an objective, scientific analysis." The Governor estimated that $100,000 in Federal funding would be needed to conduct the study which would include onsite testing of various well yields in the project area. Directed by Mr. J. Michael Jess, the State's director of water resources, the Governor emphasized that "we need a judgment we Nebraskans and others can trust to be accurate."

On April 21, the Nebraska Natural Resources Commission voted, 12 to 2, to support a study and urge Federal funding to examine the potential of the ground water recharge alternative. Mr. Dayle E. Williamson, executive secretary of the commission, wrote to me following the commission's vote advising me of that agency's position.

Recently, Mr. Vincent H. Dreeszen, director of the conservation and survey division of the University of Nebraska's Institute of Agriculture and Natural Resources wrote to me indicating that he was pleased that I have initiated action to fund an alternative study. He stated that "the need for the study becomes more and more obvious as questions are raised and opinions expressed by interested people. All of us are speculating based on inadequate information."

Mr. President, Vince Dreeszen's comments accurately summarize the pressing need to quickly, but accurately, study the well field and ground water recharge proposal.

In addition to the encouragement of the State of Nebraska's water leaders, several major newspapers have editorialized in support of considering the ground water recharge alternatives.

The Omaha World-Herald, on March 27, said, "It would make good sense to lay aside emotionalism and to remember that the primary purpose of the O'Neill unit is not to build the Norden Dam. The primary purpose of the O'Neill unit is to provide irrigation water to farmers in an area where the water tables are declining." The World-Herald reiterated this position again in another editorial on June 10.

The Lincoln Journal, on March 16, said, "The better wisdom, Democrat EXON says, is to agree upon a less expensive alternative. That's sound advice."

On March 16, the Norfolk Daily News stated, "as long time supporters of the Norden project, we would like for the Nature Conservancy proposal to get a thorough examination by engineering experts and resource developers."

The Lincoln Star, on March 22, stated in its editorial, "We believe the Norden Dam is a lost cause and some alternative must be sought if anything is now to be salvaged. The Nature Conservancy plan does have a lot to offer and could be the rallying point for the consensus of which Senator EXON speaks."

Finally, the Nebraska Resource Report, published by Mr. Jack Hart, formerly the State's water resources coordinator under former Governor Thone, reviewed the well field and ground water recharge alternative. In his April 1983, issue of the report, Hart stated that the future of the O'Neill project "must be based on what now can be done to insure as much irrigated agriculture and as much economic development as possible in that north central part of the State," and that, "against these realities," Hart concludes, "the better part of valor appears to be to rally that consensus EXON seeks, create the very best plan with the greatest amount of irrigation possible."

Mr. President, I believe that, in light of projected water needs and future domestic and international demand for grain, we must make good use of otherwise lost water resources. The major goal of the O'Neill unit was always to provide irrigation water to north central Nebraska and recharge the aquifer. This must continue to be our goal and we must not be deterred from considering any acceptable and workable alternatives to building a dam.

With that in mind, I am hopeful that a consensus to protect Nebraska's water interests can be built around a proposal which recognizes the realities of the situation in the Congress, and in particular, in the House where complete deauthorization of the project is imminent absent an alternative plan.

I have not selected any one alternative to the exclusion of others. State

water experts will start with the Nature Conservancy's well field recharge plan. Answering a series of technical questions about the yields of the proposed well field, the placement of the wells, recharge rates, siltation problems in the recharge basing, energy costs, and other questions, will be our first and best step forward in forging a concensus for the good of Nebraska.

I am greatly encouraged by the committee's support for a State-led study of alternatives.

I applaud my fellow Nebraskans who have recognized the real situation facing the Norden Dam and have urged that this study be undertaken. It is my fervent hope that it will lead us toward a positive and balanced water development program for north central Nebraska.

I strongly encourage the Senate's full support for this provision in H.R. 3069, and request the firm commitment of the Senate conferees to this provision so important to the State of Nebraska.

Mr. President, I ask unanimous consent that the editorials from the Omaha World-Herald, the Lincoln Journal, the Norfolk Daily News, Omaha Sun, and Lincoln Star, in addition to the excerpt from the Nebraska Resources Report be printed in the RECORD.

I further ask unanimous consent that the letters from Governor Robert Kerrey, and the outline of the study plan prepared by the State, be printed in the RECORD as well.

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

U.S. SENATE,
Washington, D.C., March 10, 1983.

DEAR ——— ———: I am writing to seek your advice on how we should best proceed on the O'Neill Unit. A similar letter is going forward to several others, including the Governor and the rest of Nebraska's Congressional delegation.

It appears that we may be at a crossroads on this project, and Nebraska's interests have highly questionable chances of being saved unless we Nebraskans can get our act together very soon. It will be my effort to accomplish that result and I hope you can help by giving me your views.

It has always been my belief that there is a real need for water development and limiting Nebraska's water outflows for the benefit of North Central Nebraska. But it is obvious that the construction of the Norden Dam-O'Neill Project has faced formidable environmental and financial obstacles.

There is a possibility that the current long legal battle over environmental concerns could be resolved, perhaps rather soon. But regardless of that outcome, whether favorable to the project or otherwise, there are now even more serious financial difficulties sometimes not fully appreciated.

Last December, it was only the Senate's continued authorization of funds that prevented the essential elimination of the project. Prior to the favorable Senate action, the House of Representatives voted against the O'Neill Unit for the first time by an overwhelming margin. Please refer for details to two letters dated February 24, 1983, copies attached, from Congressman Bonior, which make it clear that the action by the House in the lame-duck session was but the beginning and not the end of that body's determined opposition. With the federal deficits now confirmed at running in the $200 billion yearly range for years to come, it can be anticipated that the Senate also will be looking more critically at reducing or eliminating authorizations.

Ever since the unfavorable vote in the House of Representatives last December, which should have rung the alarm bell of all, I have been weighing the best future course of action for Nebraska.

It appears to me we have two options: One is to ignore the difficulties and proceed on course with the original O'Neill concept while acknowledging the risk of losing all funding; or, second, to seek a workable, less costly alternative that could hopefully receive widespread support in both Nebraska and Washington. The Carns Diversion Alternative already researched by the Bureau of Reclamation should be further reviewed as well as any other workable alternatives.

I have obtained Congressman Bonior's assurances that he would be approachable and would consult with me on possible alternatives without the necessity of reauthorization. He has made no commitment, however, as of now not to proceed with deauthorization. I have advised him that I will first attempt to form a consensus among Nebraskans as to how we should proceed.

In February I began looking at still another possible alternative, not previously suggested, from the Nature Conservancy group. It embodies, as a substitute for the dam, reservoir and extensive canal networks, wellfields further downstream and adjacent to the Niobrara supplying groundwater recharge to virtually the same O'Neill area. I was interested in many of the suggested benefits which claim to speed up completion, dramatically reduce the costs, eliminate all or most environmental concerns and other seemingly practical advantages advanced by this alternative. The claim is that, if adopted, the project's costs would be reduced by 73 percent, for a completed cost of less than $100 million as opposed to the present completion plan for over $368 million.

You will find attached some of the information on this option that was designed by an engineer. If there is sufficient interest in this proposal, I will initiate a formal review of this approach by appropriate federal agencies as to their view of its costs and feasibility. The main point is that we must, with dispatch, come to a workable concensus as Nebraskans and unite to reasonably protect Nebraska's water interests.

Because of the obvious need to cut federal spending, we must all do our part to explore less costly taxpayer-financed expenditures. There has been too much of the philosophy, "Let's cut yours, but don't touch mine." That attitude has got to be changed.

Your comments are solicited and further copies of this correspondence are available to any interested party from my office.

Cordially,

J. JAMES EXON,
U.S. Senator.

Enclosures.

NATURE CONSERVANCY'S "NIOBRARA ALTERNATIVE"

This is a summary of the proposal as advanced by the above organization.

The Niobrara Alternative proposes 196 pumping stations, similar to those already employed by Nebraska's three largest cities, to draw water from the Niobrara River's alluvium to a lined canal which would distribute water to approximately 125 small groundwater recharge basins. This proposal maintains instream flow for possible downstream irrigation and hydropower projects by employing underground water storage through aquifer recharge to support about 67,000 acres of land in the O'Neill area. Points for comparison and consideration:

1. The Niobrara Alternative minimizes water loss through evaporation, as it requires 70,400 acre-feet of water annually compared to the 166,500 acre-feet required by the O'Neill Unit.

2. The O'Neill Unit would serve 77,000 acres compared to the Niobrara Alternative's 67,000 acres, but the Niobrara Alternative would allow for additional irrigation downstream because of its smaller water requirements.

3. Niobrara Alternative cost is projected at $96.5 million; the O'Neill Unit at $368.7 million.

4. The estimated benefit cost ratio is 3.78/1 for the Niobrara Alternative; the same is 1.32/1 for the O'Neill Unit.

5. The O'Neill Unit requires acquisition of 30,264 acres of private land; the Niobrara Alternative only 2,300 acres.

6. It would take about 12 years construction time for the O'Neill Unit; five years for the Niobrara Alternative.

7. Since this is a groundwater recharge project, pumping costs for irrigators will be greater under the Niobrara Alternative. However, since the construction repayment obligations of the irrigation district will be much lower under the Niobrara Alternative, this will more than offset the additional pumping costs.

8. Under the Niobrara Alternative, farmers will be able to irrigate when their crops need it rather than according to the O'Neill Unit's water distribution schedule.

9. The recreation benefits of the Niobrara Alternative will be substantial although not of the same type. The recharge basins will provide excellent waterfowl habitat, and current recreation along the Niobrara will be preserved. Recreation benefits assumed in both alternatives are minor considerations in the benefit cost analysis.

10. The O'Neill Unit would require almost 100 miles of larger, lined canal and would require construction of long, underground "siphons" to transport water under creeks which traverse the canal path. The lined canal is smaller in diameter and only 20 miles long in the Niobrara Alternative.02

STATE OF NEBRASKA,
Lincoln, March 22, 1983.

Hon. J. JAMES EXON,
U.S. Senate, Hart Office Building, Washington, D.C.

DEAR JIM: I have had my staff carefully study your letter of March 10, 1983, in which you ask me on how we should best proceed on the O'Neill unit. Attached is a copy of a report from the State Water Engineer.

The question is most important because it does appear that we may be at a crucial turning point in the funding of the project. It looks as though we run a real risk in losing funding and authorization for the project.

Our concern in this issue is to deliver irrigation water to those areas which badly need supplemental water. The question is how do we provide proper soil moisture for

the necessary crop production in those areas to be irrigated by the O'Neill project. Our challenge is to answer that question with tools that we have available to us.

If funding for the O'Neill unit is not going to be possible in these difficult economic times, we do need to consider feasible alternatives as you suggest. If these alternatives are feasible and do achieve our goal of delivering water to the agricultural production areas, it is important that the authorization for the O'Neill project be transferred to an alternative so that we don't have to start all over again, the lengthy process of authorization.

I've had my staff review the Nature Conservancy's "Niobrara Alternative". Without going into technical details, I can say that the Niobrara Alternative merits further study. Mr. J. Michael Jess, Director of the Nebraska Department of Water Resources, has reviewed the plan for me and considers it to be innovative and a viable alternative. He feels that it is worthy of further pursuit by the Congress and by the State.

Therefore, I suggest that a formal review of this approach would yield valuable results and should be initiated by the appropriate federal agencies. It is important for us, as Nebraskans, to work together and to achieve our common goal of developing and utilizing our water resources.

Sincerely,

ROBERT KERREY,
Governor.

STATE OF NEBRASKA,
Lincoln, March 17, 1983.

GOV. ROBERT KERREY,
State Capitol Building, Lincoln, Nebr.

DEAR GOVERNOR KERREY: I have reviewed an alternative to the now-proposed O'Neill Unit which is intended for irrigation of some 77,000 acres of land in Holt and Keya Paha counties. The alternative study was prepared by a private firm for the Nature Conservancy. During two visits with the consultant, the scheme has been more fully outlined.

The alternative scheme proposes delivery of irrigation water to some 67,000 acres in Holt County. Much of those lands are the same as proposed for service by the Bureau of Reclamation. The principal differences between the schemes are two. The Bureau project calls for construction and operation of the Norden Dam. The Conservancy plan calls for construction of a well field in the Niobrara valley. Approximately 200 wells along a five-mile reach of the river valley constitutes the source of supply.

The other difference between the plans relates to the method of service to project land. The Bureau project utilizes a traditional approach involving direct service through canals, laterals, etc. The Conservancy plan involves operation of numerous ground water recharge pits scattered throughout the project lands. Through seepage from the pits the ground water reservoir would be recharged. Individual farm operators would tap the augmented supply by utilizing their own wells.

From an engineering viewpoint, several elements of the Conservancy plan appear feasible. Clogging of recharge pits by sediment carried in raw river water would be eliminated by utilizing pumped ground water for recharge of the aquifer underlying the project. The transfer scheme calls for sufficient recharge quantities to offset a significant portion of present ground water declines.

Cost of the alternative appears substantially less than the Bureau's proposal. The primary savings is achieved by eliminating the Norden Dam and Reservoir. Other cost savings result from construction of a smaller capacity and shorter length supply canal. Deemed unnecessary and thus eliminated is the Springview Canal which would provide water to about 10,000 acres north of the Niobrara River.

Contrasted to the proportionally high construction cost of the Bureau project, the Conservancy plan is highly energy intensive. Total lift in pumping from the valley wells and moving the water up to the high tableland south of the Niobrara valley amounts to 300 to 350 feet. Thus, a greater ratio of variable cost presumably changing in parallel with the economy would be substituted for fixed costs spread over a scheduled payback period.

In converstation with the consultant, out-of-pocket costs for individual farmers were said to be less than under the Bureau proposal. Under the same discount rate, the Conservancy plan is said to have a more favorable benefit to cost ratio (3.78 to 1 vs. 1.32 to 1). The Conservancy plan in not providing for a dam and reservior consequently eliminates flood control, sediment reduction, and some recreation benefits. I expect employment of individuals involved in the construction would also be less.

Development of a sufficient well field in the Niobrara valley at the recommended site is uncertain. The consultant acknowledged a lack of site-specific information. In its absence, he made an assessment based upon regional correlations. Skeptics could have come to dissimilar conclusions.

In summary, continuing ground water declines are a fact of life within the proposed O'Neill project. Imported supplemental supplies will provide stability to the local economy. The authorized Bureau project presents an attractive subsidy in terms of project payback, discount rate and other factors. No assurances have been given that the Conservancy plan would entail such advantages. Nonetheless, the plan is innovative and has viable elements. I believe it worthy of further pursuit by the Congress and by the State. I would be pleased to review and advise you should the plan be carried further.

Sincerely,

J. MICHAEL JESS,
Director,
Department of Water Resources.

GOV. ROBERT KERREY,
Lincoln, Nebr., April 19, 1983.

Hon. J. JAMES EXON,
U.S. Senate,
Washington, D.C.

DEAR JIM: As you say in your letter of April 1, 1983, there is considerable resistance to looking at any project (other than the O'Neill Unit/Norden Dam Project) that may successfully deliver the needed ground water to the agricultural production. Any new technology is meeting with resistance.

In analyzing any technology our method must be scientifically accurate and unbiased. We cannot afford to have the results of any experiment confounded by the preconceived notions of what the results should be.

Therefore, I am suggesting that an objective analysis be carried out by the Nebraska Department of Water Resources. The Director of this Department, Mr. Michael Jess, a qualified engineer, will coordinate a technical review of the proposed alternatives. This analysis will cost about $100,000 which we hope to provide through federal funds.

We could start the analysis this summer at the earliest date if funding can be provided. We would appreciate your assistance in this regard.

We need an objective, scientific analysis of these alternatives. We need a judgment we Nebraskans and others can trust to be accurate.

Sincerely,

ROBERT KERREY,
Governor.

STATE-LED REVIEW OF NATURE CONSERVANCY ALTERNATIVES TO THE O'NEILL UNIT

The recently released Nature Conservancy proposal outlines an alternative scheme for supplying supplemental irrigation water to the lands identified in the Congressionally-authorized O'Neill Unit. Reaction to the proposal has been mixed. A number of technical and economic questions have been raised. Review and evaluation of those issues is desired.

Michael Jess, Director of the Department of Water Resources, has been designated by Governor Kerrey to coordinate a State-led review. Jess will call on Vince Dreeszen, Conservation and Survey Division, UN-L and V. K. "Tony" Vrana, Natural Resources Commission for assistance. The review will be conducted with the aid of the private sector, University departments, State agencies, the North Central Nebraska Reclamation District, the Nature Conservancy and the Bureau of Reclamation. Information available from the Bureau of Reclamation, from other federal agencies and from elsewhere will be utilized.

The Governor has estimated that a minimum of $100,000 in cash will be sought. The study coordinator estimates the effort will require 18 to 24 months' time.

The State-led review will examine the possibilities of serving the designated project lands without utilizing a major reservoir. The study will not attempt to pass judgment on the O'Neill Unit as authorized. Rather, it is envisioned as an effort to consider alternatives consistent with the objectives of Congress.

Specifically, the review is expected to shed further light on the:

(1) Capability of Niobrara Valley well fields utilizing vertical wells of conventional design or collection galleries of less common but proven technology.

(2) Potential for large-scale ground water recharge (through ditches, pits, spreading basins, etc.) in the project area on a sustained basis.

(3) Possibilities of directly serving some project lands where recharge may not be feasible so as to maintain the objectives of Congress and "keep the project lands whole."

(4) Estimated cost of the alternative project in terms of federal, state and local outlays, out-of-pocket costs to irrigators, and operation and maintenance.

To the extent possible, the review will also address social, environmental and legal issues.

If a favorable report can be made on an alternative, it is assumed that a feasibility study would follow.

STATE OF NEBRASKA,
GOV. ROBERT KERREY,
Lincoln, Nebr., June 7, 1983.

Hon. EDWARD ZORINSKY,
Hon. J. JAMES EXON,
U.S. Senate,
Hon. DOUGLAS K. BEREUTER,
Hon. HAL DAUB,
Hon. VIRGINIA D. SMITH,
House of Representatives,
Washington, D.C.

DEAR NEBRASKA DELEGATION: Earlier this Spring, several State water development agencies joined together to propose a State-led review of alternatives to the Norden Dam-O'Neill unit. I designated Michael Jess of the Department of Water Resources to coordinate the State led review, which would be conducted with the aid of the Conservation and Survey Division of UNL, the Nebraska Natural Resources Commission, and other parties including the U.S. Bureau of Reclamation.

In proposing the State-led review, we estimated that $100,000 would be necessary from the Bureau of Reclamation and that 18 to 24 months would be required to complete the study.

The Senate Appropriations Committee has now directed that the State-led study be undertaken, and we ask that the Nebraska delegation support the language as it was reported in the 1983 Supplemental Appropriations Bill. To maximize the objectivity and effectiveness of the study, the sooner the study is approved, the sooner it can be completed. We are assuming that no further money would be spent on construction activities until the study is completed.

We are eager to move forward with a cost effective consensus project for the benefit of north central Nebraska and it is the intention of the State to conduct the study expeditiously. I have directed Michael Jess to begin immediate preparations in order to advance the timetable of the study.

Sincerely,

ROBERT KERREY,
Governor.

[From the World-Herald, Mar. 27, 1983]

A CHOICE ON NORDEN DAM

The Bureau of Reclamation's proposal to dam the Niobrara River near Norden, Nebr., and transport water by canal to the O'Neill area continues to generate opposition in the Midlands and in Congress.

That opposition has reached the point where proponents of using Niobrara water for irrigation in the O'Neill area should recognize the possibility that the Norden Dam will not be built.

Last December, the House voted 245-144 against appropriating construction money for the dam.

An analysis of the vote distributed by Rep. David Bonior, D-Mich., illustrated the extent of the opposition to the Norden Dam. Those voting against the project included majorities of the House Democrats, House Republicans, House Interior Committee members, Public Works Committee members and representatives from Western states. Even the Nebraska delegation, he noted, is divided.

Last week, Bonior introduced legislation to "deauthorize" the project.

Sen. J. J. Exon, who is proposing a look at an alternative plan proposed by the Nature Conservancy, has said the situation is at a "crossroads." Governor Kerrey, who has recommended that the Nature Conservancy's plan be submitted to a formal review, says the O'Neill project is at a "critical turning point."

Exon, in a letter to a number of Nebraskans earlier this month, said the choice is between:

Ignoring the political and financial difficulties associated with the Norden Dam and risking the loss of all federal funds for irrigation in the O'Neill area;

Seeking a workable, less costly alternative capable of winning support in Nebraska and in the nation's capital.

Supporters of increased irrigation in the O'Neill area should consider those alternatives.

The Nature Conservancy's proposal would involve the drilling of 196 wells on either side of the river. Water pumped from beside and below the river would be carried by canal to man-made ponds in the O'Neill area, from where the water would soak into an aquifer.

Local irrigators would pump the water to the surface as needed, using their own irrigation systems.

Some of the reaction to the Nature Conservancy's plan has been critical. Such longtime supporters of the Norden Dam as State Sen. John DeCamp of Neligh and former Sen. Maurice Kremer of Aurora have described the plan as merely a variation of a concept already studied and found unworkable.

Supporters of the Nature Conservancy's plan say that the idea is superior to the Norden Dam proposal. The Nature Conservancy's plan would cost less, they say, leave more water in the river, lose less water to evaporation and seepage, require the condemnation of less private land and still provide irrigation water to most of the territory targeted for Norden Dam water.

Such claims should be submitted to study and review as suggested by Kerrey and Exon. The Nature Conservancy's plan deserves a look. The O'Neill Unit issue needs to be resolved.

It would make good sense to lay aside emotionalism and to remember that the primary purpose of the O'Neill Unit is not to build the Norden Dam. The primary purpose of the O'Neill Unit is to provide irrigation water to farmers in an area where water tables are declining.

[From the Lincoln Journal, Mar. 24, 1983]

DAM DOES NOT THRILL KERREY

Nature Conservancy's alternative to the Norden Dam as a means of furnishing irrigation water to the O'Neill Project is, quite as Gov. Kerrey says, an "innovative" one. Whether it is also a "viable alternative," as the governor is further quoted as saying, isn't quite as firm. That may be a case of the hope being the father of a wished-for conclusion on Kerrey's part.

The governor's letter to Sen. J. J. Exon endorsing careful checking of the suggestion of an extensive well field along the Niobrara River as a source of water for north-central Nebraska irrigation is still a meaningful statement. It means that Kerrey is not keen about construction of the Norden Dam. Reaching a contrary conclusion would be difficult.

As a platform for his comments to Exon—who raised the Nature Conservancy alternative earlier this month—the governor referred to comments of J. Michael Jess, the state's water resources director. Jess wrote that from an engineering consideration, the well field/recharge pit package appears feasible.

But Jess also was cautious enough to add that there is no guarantee of a well field of sufficient productive size at the proposed location. And tests could prove him correct.

It may be that the kind of river water diversion structure and temporary reservoir sketched by Rep. Douglas Bereuter months ago might be a more stable, satisfactory option.

Not only the Nature Conservancy proposal but the diversion and pumping combination cited by Bereuter ought to be checked out in maximum detail—including financial detail.

[Editorial from the Lincoln (Nebr.) Journal, Mar. 16, 1983]

STATE SHOULD FOLLOW UP EXON, BEREUTER NORDEN ALTERNATIVES

It's J. J. Exon, not E. F. Hutton, who's doing the talking. Nevertheless, backers of the embattled O'Neill Unit-Norden Dam project ought to listen attentively.

The state's junior U.S. senator this week all but signalled the project in its present controversial form is probably moribund. The financial costs and environmental considerations involved are too heavy. The better wisdom, Democrat Exon says, is to agree upon a less expensive, dam-less alternative.

That's sound advice.

An option which Exon recommends—at least for purposes of getting constructive new thinking started, so far as we can tell—is a proposal developed by the Nature Conservancy. It has as its central feature an extensive well field bordering the Niobrara River, straddling the Rock and Holt County boundary line, and then a groundwater recharge system.

Pluses held out for this plan are that it would cost less than $100 million or about one-fourth of the current project design, have a genuinely positive benefit-cost ratio, be less environmentally intrusive and could have a chance of being operative six to seven years earlier.

This is not the same plan which Rep. Douglas Bereuter had highlighted in October 1981, rather than going ahead with construction of Norden Dam. Of nine alternatives to the old project, Bereuter focused on one called the Carns Pump Diversion plan—a 10-foot high diversion structure positioned on the river, creating a small seasonal holding pool just where Rock, Holt, Boyd and Keya Paha Counties come together.

Whether the Carns Pump Diversion scheme is better than the wells/recharge combination prepared by the Nature Conservancy is, of course, an informed judgment incapable of being made without analysis.

When Democratic Rep. John Cavanaugh declined to seek a third term, Republican Bereuter picked up the flag of opposition to the O'Neill Project, so long as it embraced the Norden Dam. Bereuter's politically unpopular but leadership-style call in June 1981 for an honest, updated financial evaluation of the project helped lay the groundwork for the position which Exon now has reached.

Given Exon's political weight, in Nebraska and on the Senate Budget Committee, his counsel that all sides get together on a compromise alternative should not be spurned. Exon is simply being pragmatic in this regard, and of a mind to help Nebraska, lest the entire irrigation project go, as they say, down the river.

[Editorial from the Norfolk (Nebr.) Daily News, Mar. 16, 1983]

AN ALTERNATIVE?

Sen. J. J. Exon thinks there may be a way to meet the objectives of the O'Neill-Norden Dam project without the dam. He wants serious consideration given the proposal made by Nature Conservancy to supply water to the 67,000 irrigable acres in the O'Neill area by means of wells drilled along the Niobrara.

That proposal would require nearly 200 wells along a stretch of the river north of Newport. The area is approximately 40 miles east of the Norden Dam site. It would require much less canal construction, and would provide a series of small water impoundment areas supplied by the wells rather than the single large dam. As estimated now, the cost-benefit ratio would be greatly improved.

The Norden project's cost estimate is currently $368 million; that for the conservancy plan $96.5 million. The benefit to cost ratio of the original project is to be 1.32 ($1.32 in benefits to each $1 of estimated costs), while the new plan indicates a 3.78 ratio. Land acquisition by the federal government for the conservancy plan would total 2,300 acres; that for the original project 30,000 acres.

The plan advanced by the conservancy group and suggested for consideration now by Sen. Exon has two major deficiencies. It would not create a new lake, useful for recreation, though that tradeoff for flooding of a scenic area has never been acceptable to opponents of the project. Neither would it provide water to 8,000 acres in the Springfield area which is a feature of the original Norden project.

Sen. Exon believes the vote in the House last year when the O'Neill-Norden project was denied additional funding was an omen which now leads to only two options. One would be to attempt to "proceed on course" with the original project despite the risk of losing all funding. The other is "to seek a workable, less costly alternative."

Before the conservancy group's plan there seemed no practical alternative to consider. Now there is one, though its feasibility must still be determined. There may be environmental groups which would as vigorously oppose the alternative as the original project; or those who would see grave dangers in tapping ground water to the extent such a project requires. Still others will argue—as is the case with the original project—that any schemes to improve production in the face of crop surpluses is unwise.

Making good use of otherwise wasted water resources, however, remains good public policy.

The conservancy group has come up with a proposal that deserves careful study. Sen. Exon has outlined the situation in realistic terms. There is every reason for advocates of resource development in the area and in Nebraska to examine it with care, and with a positive approach. As long-time supporters of the Norden project, we would like for the Nature Conservancy proposal to get a thorough examination by engineering experts and resource developers.

[Editorial from the Lincoln (Nebr.) Star, Mar. 3, 1983]

NEW FUTURE POSSIBLE FOR NORDEN DAM PLAN

Slowly but surely, it seems, the Norden Dam-O'Neill Project is slipping away into oblivion. Congressional forces are arrayed against it that seem irreversible and the project earns no new friends along the way.

Nebraska Sen. Jim Exon is currently attempting to determine what route the state wants to take, from a political point of view. He writes in a letter: "In February I began looking at still another possible alternative [to Norden], not previously suggested, from The Nature Conservancy group. It embodies, as a substitute for the dam, reservoir and extensive canal networks, wellfields further downstream and adjacent to the Niobrara supplying groundwater recharge to virtually the same O'Neill area.

"I was interested in many of the suggested benefits which claim to speed up completion, dramatically reduce the costs, eliminate all or most environmental concerns and other seemingly practical advantages advanced by this alternative. The claim is that, if adopted, the project's costs would be reduced by 73 percent, for a completed cost of less than $100 million as opposed to the present completion plan for over $368 million. . . ."

The Senator went on to note that it is imperative that Nebraska come to some kind of consensus in this matter, beyond the O'Neill unit on a take-it-or-leave-it basis. It is imperative because political forces in Congress are moving to de-authorize that unit, a project now nearly 30 years in the planning and still without a shovelful of dirt moved toward its construction.

On a vote in the 1982 lame-duck session of Congress, the O'Neill project was rejected by a staggering 101-vote margin. The prime House mover against the project is Rep. David E. Bonior of Michigan who has informed Senator Exon of his intentions to see a House de-authorization of the O'Neill unit, a move Bonior believes will be met with resounding success.

We believe the Norden Dam is a lost cause and some alternative must be sought if anything is now to be salvaged. The Nature Conservancy plan does have a lot to offer and could be the rallying point for the consensus of which Sen. Exon speaks.

Without some such switch in approach, everything will be lost and Nebraska will have to start all over again. A switch to the conservancy's plan would salvage existing appropriations of some $10 million plus salvaging a green light in the Congress for a water project along the Niobrara.

We do not lay claim to the engineering expertise to render a solid judgment on the conservancy project but it looks to have a great deal of potential. We commend Exon for his attention to the matter and hope he proceeds with a request for a formal review of the project by appropriate federal agencies, as he has offered to do if support out of Nebraska is forthcoming.

If Nebraska sticks to its guns on the Norden Dam, it is likely to lose that battle, plus anything that could be salvaged from moving at this time to a new plan of action. It is time to recognize the inevitable demise of the O'Neill unit.

[Editorial from the Omaha (Nebr.) Sun, Mar. 23, 1983]

SENATOR EXON TRIES SALVAGE OPERATION

Since its authorization by Congress in 1971, the proposed Norden Dam project (also known as the O'Neill, Nebr. irrigation unit) has been attacked by environmental and taxpayer groups.

While opposition has mushroomed in recent years, our two U.S. senators, J. J. Exon and Ed Zorinsky, have straddled the fence.

Both are still there, but Exon has taken some action, mailing a letter to 60 Nebraskans who represent a cross-section of viewpoints on the issue. He has asked them to compromise so Nebraska won't be shut out of funding for some type of irrigation project in North Central Nebraska.

Some observers have termed his action "courageous." Always sticklers for precise language, we prefer the phrase, "politically astute."

In our view, those who know Jim Exon's style can take the letter as an electrocardiogram of the dam's failing vital signs.

Last fall, Rep. David Bonior led a floor fight to eliminate funding for Norden. The motion carried by more than 100 votes in the House, though it was deleted from budget resolution language in what is known as "joint conference."

Nevertheless, Bonior says he'll pursue the issue. With more Democrats in the House this year, a move to dump Norden would be even more popular.

So Exon has turned to alternatives, specifically a new proposal forwarded by the Nature Conservancy, an environmental group. It calls for construction of almost 200 wells along the Niobrara River to supply water for 67,000 acres.

The plan includes 125 recharge basins. The underground water table has been dropping because of past irrigation. The need for recharge has been cited by Second District Congressman Hal Daub as a reason for his support of Norden.

The Nature Conservancy plan appears to have several advantages over the Norden plan put forth by the Army Corps of Engineers.

Take cost. For the Nature Conservancy plan, it's $26.5 million. For Norden? $368 million.

Wells would not threaten the scenic river and its white-water rapids as would Norden, nor would wells put agricultural land under water. Environmentalists and Ed Jaksha, head of the Nebraska Taxpayers Coalition, seem amenable to such a plan. While the well system doesn't give dam backers everything they wanted (it would irrigate 10,000 fewer acres), it might be something they can live with.

Depending on the willingness of the two factions to compromise, the senator appears to have stepped in at the right time to put an end to the long dispute.

While congratulating Exon on his initiative, we must point out that his past reluctance to oppose an essentially wasteful project has prolonged its life.

Indeed, his chief concern today seems to be to save "Nebraska interests,"; in other words, to salvage some federal money for the state.

In essence Exon is still suggesting we spend tens of millions—most paid by electrical ratepayers—to irrigate for increased agricultural production. At the same time, the government is paying farmers not to grow crops. Sometimes politics is simply beyond our understanding.

The real credit for scaling down this boondoggle should begin with former Second District Congressman John Cavanaugh, who had the courage to attempt scuttling a pork barrel project in his own state.

And let's not forget First District Congressman Doug Bereuter, who has had the courage to buck a Republican colleague (Rep. Virginia Smith) in arguing for a less costly alternative. Their efforts made Bon-

ior's assult on Norden possible, with the result that Norden supporters should now be grateful for whatever Exon can do to salvage something.

[From the Nebraska Resources Report, April 1983]

O'NEILL'S ONLY HOPE

The supreme irony of the year: Jim Exon rallying support for a consensus on a plan for irrigation land near O'Neill.

The existing plan, a considerably more beneficial plan than the new one being touted, once had just that kind of consensus in Nebraska—solid support from the congressional delegation, the governor and all the political forces that really counted.

It had that kind of consensus until then-Gov. Exon beat a hasty retreat when the project started drawing some flack and his Democratic colleague in Congress, John Cavanaugh, came out against it.

Had then-Gov. Exon given the original plan some strong support in the latter 1970s, now-Sen. Exon might not have to be out hustling support for a lesser project in 1983.

Such reflections, though, are not the stuff that decisions should be made of. Deciding the next step in the tortuous course of the O'Neill project must be based on what now can be done to ensure as much irrigated agriculture and as much economic development as possible in that north central part of the state.

Whatever has gone before, injection of the Nature Conservancy plan into the cauldron of controversy surrounding O'Neill irrigation undoubtedly spells the doom of the original project.

If sponsors now attempt to push ahead with the original plan, no matter how good that plan or how noble the cause, they almost surely would do it without the support, and likely with the opposition, of Exon and Gov. Kerrey, who have embraced the alternative, as well as Rep. Doug Bereuter.

That would be too much burden even for the best of projects, which the original O'Neill plan is.

Against these realities, the better part of valor appears to be to rally that consensus Exon seeks, create the very best plan with the greatest amount of irrigation possible, then stay the course toward realization of that plan even if its course too becomes a little rocky.

Mr. PERCY. Mr. President, on Thursday, June 3, the Senate adopted an amendment which I introduced related to the need for authorization prior to the obligation of foreign assistance appropriations. I believe colloquy is needed to create more legislative history related to that amendment. I have discussed this situation with Senator HATFIELD, the chairman of the Appropriations Committee, and also with Senator KASTEN, the appropriate subcommittee chairman on Foreign Operations.

The House bill contains language that states:

Funds in this chapter may be made available for obligation only upon enactment of authorizing legislation.

The amendment that I introduced included identical language and it also contained one additional sentence which states, "Funds in this chapter shall remain available until expended."

The second sentence was added at the suggestion of the Appropriations Committee and I concur that if the authorization bill is enacted late in the year that such language is necessary.

The reason that I raise this issue again, however, is that I want to make absolutely certain that the addition of this second sentence in my amendment does not make the substance of the first sentence subject to modification in conference. Since both bills contain identical language requiring subsequent authorization, I believe that this sentence should remain in the conference bill. I also want to make certain that the conferees will not add language to the bill that would in any way waive the need for subsequent authorizing legislation. That was the clear intent of my amendment and I am sure the managers of the bill will honor that intent.

It is my understanding that they do concur with it. Certainly, the chairman of every authorizing committee in the Senate and the ranking member of every authorization committee in the Senate would concur with that. Otherwise, what is the authorization process all about? That is the principle we are protecting on the floor today.

I thank my distinguished colleague for considering this matter and would very much appreciate at this time his response.

Mr. KASTEN. Mr. President, let me answer the chairman of the Foreign Relations Committee in the following manner. As he knows, when the supplemental appropriations bill came over from the House, it contained language with reference to authorization. That language was redundant. The underlying permanent law requires authorization through the so-called Fulbright amendments. Therefore, I moved to strike the additional language and the committee struck it.

Nevertheless, I agreed to accept the Senator's amendment putting this redundant language back in, amended by a suggestion I made, making the funds available no-year funds, the latter being something that we do not like to do in the Appropriations Committee with reference to foreign assistance. Nonetheless, in order to accommodate the Senator from Illinois, we did so. As I understand the Senator, he wishes me to make some kind of ironclad guarantee that the other body will not insist or the conferees will not insist that some kind of change be made in the language.

I know from his discussion that the Senator realizes that this is something that I cannot unilaterally do. I do not have the power to do it. I have tried to accommodate the concerns of the chairman because I believe in the regular process. I, too, want to get an authorization bill. As the Senator knows, there were some in the administration wanted me to introduce an amendment waiving authorization or to submit a date certain. I would not do that. But it is impossible for me to guarantee against any action that the conference might take on this matter. However, I agree with the interpretation of the Senator from Illinois. Since both versions of the bill contain identical language requiring subsequent authorization, I fully agree that I will make every effort to insure that language will be in the conference bill.

I also agree that I will make every effort to insure that the conferees will not add additional language to the bill which has the effect of overriding this provision or which would in any way waive the need for subsequent authorizing legislation prior to obligation of the appropriated funds in chapter V.

Mr. PERCY. Mr. President, I thank my distinguished colleague. I feel, with this assurance—and I have great confidence in his tenacity. Having worked with him as closely as I did for as many weeks and months as we did on the important matter involving withholding, I know he is a tenacious fighter and fights for what he believes in. I thank him very much indeed. This will make unnecessary, then, an amendment at this time. I thank the Senator from Wisconsin for the assurances he has given to me.

I also want to say that should the conference bill return to the Senate with language waiving the foreign aid authorization requirement, I want to make very clear to the leadership and managers of this bill that I shall do everything in my power to delay and defeat the conference bill. I want to have no misunderstanding about the intentions of the Senator from Illinois in that regard.

I do very much appreciate the spirit of accommodation with which we have always worked together. It is essential that the chairman of the Appropriations Committee and the chairman of the Foreign Relations Committee and our respective ranking members do work closely together in harmony. We have done it for 2½ years. I know we shall continue to do so. I appreciate this matter being resolved.

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

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

AMENDMENT NO. 1389

(Purpose: Provide an additional $34.5 million for soil conservation programs)

Mr. MELCHER. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The Chair informs the Senator that the pending business is the committee amendment.

Mr. MATTINGLY. Mr. President, I ask to set aside the pending committee amendment to consider the amendment of the Senator from Montana.

The PRESIDING OFFICER. The Senator, as floor manager, has that right.

The clerk will state the amendment of the Senator from Montana.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER), for himself and Mr. BOREN, Mr. BAUCUS, Mr. ZORINSKY, Mr. JEPSEN, Mr. RANDOLPH, and Mr. EXON, proposes an amendment numbered 1389.

At, the end of the bill add the following new section:

For an additional amount for Soil Conservation for the fiscal year 1983, $34,500,000 to remain available until expended, of which $10,000,000 shall be for Resource Conservation and Development, $3,900,000 shall be for the Great Plains Conservation Program, $10,000,000 shall be for Soil Conservation Matching Grants, $10,000,000 for the Agricultural Conservation Program, $600,000 shall be for the Special Areas Conservation Program: *Provided further,* That $100,000 from the Special Areas Conservation Program be made available for the "MIDAMERICA" program.

Mr. MELCHER. Mr. President, the amendment which I am offering on behalf or myself and Senator BOREN, Senator JEPSEN, Senator BAUCUS, Senator RANDOLPH, Senator EXON, and Senator ZORINSKY is an amendment that has been carefully worked out with the soil conservation districts throughout the country through the national organization and with the professionals in the Soil Conservation Service down at the Department of Agriculture. The way we have done this is to say that we would like to do the right thing with soil conservation, to start an additional step in the catchup that we know is needed by coming up with sufficient funds for doing the right thing for our soil and water base throughout the country. We proposed an amount somewhere in the range of $32 million to $36 million as an add-on to this supplemental in order to take that additional step.

We are not making the case that there has not been some dollar improvement over the past couple of years for soil conservation. What we are making the case for is that in real dollar values, we are attempting desperately to get back to where we were in the actual amount of work accomplished in soil conservation in the 1968–70 period. That is how sad the situation is. We are approximately one-half in actual accomplishment in soil conservation work during 1982 of where we were in 1968, 1969, or 1970. That is a sad situation.

One might say, well, maybe we were doing too much in 1967, 1968, 1969, and 1970. That was not the case. We were simply a little more prudent. As a matter of fact, none of us will argue that you ever do too much work on soil conservation, that you ever do too much work on watershed protection, that you ever do too much work on avoiding erosion, whether from water or wind. All of us who realize that the greatest asset this country has is our soil and water base know that we could never do too much in soil conservation.

We did not do too much in the late sixties or the first year or two in the decade of the seventies, but it has been a sad fact that since then because of inflation, because of the urgency of other national programs, we have not really kept pace. We have started down the trail of trying to make the adjustment to put soil conservation work on a higher priority, but we simply have not reached the point where we can say we are doing an adequate job. In a year when we are facing huge deficits, we know full well that an add-on amendment to a supplemental appropriation or any appropriation bill is a difficult task, but there is money in this supplemental for so many different things that are of less importance than soil and water conservation that I urge all Senators to very seriously consider the need for this modest add on.

The reason it is split up in the five different components is to make certain that the areas of soil conservation work that need a little additional funding will have it. We have taken the advice, as I mentioned earlier, of the soil conservation districts throughout the country and we know that this money will be very wisely spent. When will it be spent? It will not necessarily be spent between now and October 1. The argument could be made, "Well, why make it in an appropriation bill?" The reason we are offering it now, Mr. President, is to make sure that the utmost in planning and utilization can take place. Planning for soil conservation work is not the type of planning where you have the money this week and you start to figure out how you are going to spend it 2 or 3 weeks from now. To the contrary; the money used for soil conservation work has to be available and then programed through the system. That takes a great deal of time. The money that we are actually appropriating, once it has been enacted into law, will get into that process, that chain of events and will clearly be ready sometime late this fall where the climate permits it or into next spring and summer. None of it will be wasted.

The regional convention of the National Association of Conservation Districts throughout the United States had just recently completed its activities in our State of Montana. The convention was held at Great Falls. We felt rather honored to be able to host this regional convention. The soil conservation districts throughout the country are composed of people who devote their own time without much in payment, sometimes none, sometimes modest, depending on whether there is any money in the soil conservation district. But they devote their time because they are so concerned with these precious assets, our land and water, in the United States that they want to make progress. The purpose of this amendment is to assist that effort. Most soil conservations districts are composed of thousands of people who are dedicated to the lifelong work of trying to leave the soil and water base in better shape than when they first acquired ownership or first became engaged in farming or ranching.

Most of them are people with families. They involve the family in the vital concern of conservation work. They constantly keep uppermost in their mind that while farming and ranching is often very tough economically, soil and water work must continue. They do that because they realize the future generations of this country are hostage to the work that we do during our lifetime—so that we pass on to them the opportunity of production from land, utilization of land for wildlife values that is better than it would have been if we had not paid attention to it.

That sounds like a very simple procedure. Actually, it is a procedure that is so right that no matter whether it is simple or difficult or involved, every project that is undertaken in a soil conservation district is one that has been designed to accomplish a given purpose and to reach the goal that we all contribute to, and that is a better land and water base.

We have had a great concern over the past several years about the amount of erosion that has transpired because of heavy cropping of our farmland. This is of great concern to everybody that works the land, and it is of great concern to the Department of Agriculture. It is of great concern to everybody that has ever contemplated the value of our land and water base.

Soil conservation work is the tool that we use to protect that. Now, if we felt that we were up to snuff in it, up to full speed in it, I do not think I would be offering this amendment today and my colleagues would not be joining me in asking the Senate to support this amendment, but we are not up to speed. We do not have things going properly in soil conserva-

tion work; that is why it is so urgent that we pass this amendment today, to take one more, little step forward in that catchup work that is so vital. I hope that my colleagues will join with me in supporting the amendment.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I sincerely regret having to rise in opposition to this amendment offered by the Senator from Montana. Not only is he a very wise and able Senator in the specific area of farm and soil conservation programs, but he has identified an area of need that clearly exists. As a matter of fact, it was just a couple of weeks ago that the Soil Conservation Subcommittee of the Senate Agriculture Committee began a series of hearings around the country to try to identify the best ways to go about solving some of these very serious problems. In my State of Mississippi, for instance, we are ranked third among the States in the average annual rate of soil loss by reason of erosion. I know there are some other critical areas out in the Northwestern part of the country. For instance on much of our very valuable farmland. The national average is something like 10 tons of soil per acre being lost each year. So every effort has to be made to address this critical problem.

It was for this reason that the jobs bill that was recently passed included $107 million to create jobs for building watershed projects and for taking other steps to provide technical assistance for landowners to help meet this critical problem. In addition to that, Mr. President, in the regular appropriation bill for fiscal year 1983, we provided over $30 million for the resource, conservation, and development program and over $20 million for the Great Plains conservation program. Both of these are areas in which the Senator from Montana now seeks to add almost $14 million.

What we are saying is that we are now in the process of writing the subcommittee's recommendations for soil conservation to the Senate Committee on Appropriations for the fiscal year 1984 budget.

These matters that are brought to the attention of the Senate now by the Senator from Montana will certainly be in the minds of the members of that subcommittee as we proceed to a markup on Tuesday.

Although we know the money could probably be used—we know the needs are there—we should not come in at this point and add over $20 million of new money to be spent during the remainder of this fiscal year. We hope to have an adequate level of funding to recommend to the full committee.

I might say, too, that in the discussion of this bill, we authorized some $17 million to be spent by the Soil Conservation Service to rehabilitate watershed and other flood control devices that may have been damaged in recent flooding that the country has endured.

In other words, there is a strong effort being made by the Senate, and the Appropriations Committee, to get the maximum amount of funding targeted to these critical areas of need.

It was brought to my attention this morning that we are approaching $1 billion in excess of the administration's request in this supplemental appropriations bill. I am afraid that if we push our luck too far, we are not going to see this bill signed, but sent back to us.

There are a lot of critical problems targeted in the bill, and I would hate to see us bogged down in a confrontation that can be avoided. I think it can be avoided by waiting for the fiscal year 1984 appropriations bill that is coming up to fund the activities of the Soil Conservation Service. Let us not try in less than one-half of the fiscal year to do everything we know needs to be done.

We have long-range problems. We have some very serious problems in this area.

My hope is that the Senate will refrain from approving the amendment and will leave to the regular budget process the ability to help solve this problem.

Mr. MELCHER. Mr. President, my good friend from Mississippi has accurately stated what has been done recently.

The $5 million in the jobs bill that was carved out, for example, for RC&D lead to an effort to identify how much was needed to be done in RC&D work.

For those who are not familiar with the initials RC&D, it is resource, conservation, and development areas that are spread throughout the United States and identify, under this program, how better to make the area improve in resource, conservation, and development efforts.

That $5 million out of the sum that was appropriated in the jobs bill was a small part of the 55 million dollars' worth of work for RC&D that should be funded immediately, as quickly as possible. What is available under current appropriations, however, is something less than $30 million.

So we cannot perhaps do as much as we should for RC&D. But, having spent the $5 million and finding out far more was needed, it seems to me that it would be a little foolish not to go ahead and provide some of the unfunded money. What we have done in the amendment is to stake out $10 million of this $34 million for that purpose.

In looking at the Great Plains conservation program, we found that there are some contracts that are supposed to be let. These are contracts that are supposed to be let this year out of funds obligated in fiscal 1983. These are funds where the Federal Government puts up a little money and, like our RC&D and ACP, almost all conservation work, where the Federal Government puts up a little money—sometimes it gets up close to half; in recent times, nowhere near that—and the individuals put up the balance.

We are not talking about a program where we dole out of the Federal Treasury the money to buy something. What we are talking about in these programs is where we take some seed money out of the Federal Treasury, and then it becomes larger because the individuals or the areas, the soil conservation districts, and sometimes the States, contribute half or more.

When you break it down, in several of these programs we are talking about a dollar of Federal money and $2 to $3 of somebody else's money. It is a good investment for the Treasury.

In the Great Plains conservation program, we find that there are 262 contracts that cannot be met. They should be met this year, so that the work can start going forward. As I explained earlier, sometimes the work can start this fall. It generally does. Other times, we even have to wait until spring. But until a contract is let with the individual operator or the soil conservation district, nothing is in the mill.

It is estimated by the Department of Agriculture and by the National Association of Conservation Districts that $3.9 million would meet its unmatched or unfunded obligations. Bear in mind that this will be part Federal money and the bulk of it will be private money. So it is a good investment.

It is discouraging—and this is what we can take note of for next year—that in the Great Plains conservation program there are 4,000 unserviced contracts, with a value of nearly $70 million, that could be developed if this program were ever funded at an adequate level.

So what we are talking about in this supplemental is a modest $3.9 million for this program to catch up on the 262 contracts that will not be funded otherwise.

There is another program that has never gotten off the ground. It is the basic soil conservation matching grant program in which the Department of Agriculture provides matching grants for a conservation district itself to match, or the State can match it. We came up with this idea a number of years ago because we realized that we were under tight budget constraints. So we authorized this program, and it has never been funded a nickel. Under this amendment we will take that little step and start this program

going; $10 million of this amendment is made available, or would be made available, to start that program.

One might say that this is a new program but it really is not a new program. This is just a new way of funding soil conservation work. It is not a new program at all. The basic concept of soil conservation goes back to whenever they stuck a plow for the first time into the earth of this great country of ours. Soil conservation work is as old as that.

This is just a new method of funding that the Department of Agriculture and Congress thought would be a little more meaningful in stretching the buck.

I think it has great promise.

We enacted it in the Agriculture and Food Act of 1981, and we have never been able to have any money. So, a very modest $10 million is allowed for starting this program.

Of course, the other $10 million that makes up this $34 million total figure is in the agricultural conservation program. That is the basic program that has been utilized for so many decades and would bring it up a little bit, just another step forward.

We used to appropriate $170 million almost routinely every year for this program. Part of our trouble has been that each year during the seventies the $170 million bought less. The dollars were the same but they bought less in all work done.

Now we have worked that back up to close to $200 million. We are not quite there. This would add it to the $190 million that is already appropriated and would make it $200 million flat.

What would that $200 million buy? It would buy less than half of what it bought in 1970 but, nevertheless, it would be another little step forward in our catchup, our combined efforts to do the right thing by soil conservation work.

I hope the point was not missed on what my friend from Mississippi was describing in the add-on that we have had for watershed protection. Yes, indeed, we did that, and I am very proud and pleased that the Senator from Mississippi made that proposal, and I think he really did a service to the country and credit to Congress in making that proposal on an earlier bill to add that amount of money.

So this amendment does not deal with that, having recognized we have gone about as far as we can this year in watershed protection. We do not offer anything in this area in our amendment now before the Senate.

But each and every one of these items that we have in here is very vitally needed, money well spent, prudently spent, if we agree with the amendment, and it will be something better, a little bit better for our soil and water base throughout the country.

Mr. President, I ask unanimous consent that Senator BURDICK be added as a cosponsor to this amendment.

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

Mr. COCHRAN. Mr. President, I do not know of any Senators on this side of the aisle who intend to speak on the amendment.

I am prepared, if the Senator from Montana is, to yield back the time and vote on the amendment. I do not see any point in belaboring the issue. It is one that clearly is correct in terms of bringing to the attention of the Senate the fact that we have a lot of unmet needs in the area of soil conservation. It is going to cost a lot of money to correct problems that exist throughout this great country of ours, and we are going to run the risk of wasting a valuable resource, our land and water, if we neglect them.

But efforts are underway to try to identify and to target funds to areas of most need. We plan to include some money for targeted area programs in the fiscal year 1984 bill that will be considered by our subcommittee next week. And we hope to meet some of the other needs that have been identified by the Senator from Montana.

It is not a question of whether these needs exist or whether it is important that Congress respond. The question is, do we have time within this fiscal year to do $34 million worth of work in this area? Or should we follow the regular, more orderly appropriations process to address the funding needs that we have in soil conservation?

For these reasons, I hope the Senate will vote against the process.

The PRESIDING OFFICER. Is there further debate?

Mr. MELCHER. Mr. President, I do not think we are going to talk any more about this. I think the case is stated.

What we have done is very carefully identified the funds that should be committed the remainder of this fiscal year. I am not talking about the calendar year. I am talking about the remainder of this fiscal year and that identification has been done by the soil conservation districts themselves and carefully gone over and screened by the professionals down in the Department of Agriculture.

The Department of Agriculture, the people in the Soil Conservation Service, John Block, the Secretary of Agriculture, everyone connected with it believes firmly that this should be done.

It is not their fault that they cannot get by the Office of Management and Budget.

To put this in perspective, if we could, $34 million is about what we spend in this country about every 10 minutes. If we could get the rate of interest that is paid for Treasury notes down not one-tenth of 1 percent, down 1 percent of one-tenth of 1 percent, we would have $34 million for this vital soil conservation work.

I hope that Senators will very seriously consider this proposal and note that not only is it urgently needed for this fiscal year but it has been urgently needed for several years and we will have the opportunity to take one of the minor steps of catching up with work undone for the country.

Mr. STENNIS. Mr. President, I shall be quite brief.

I have been concerned with the reports that have come in the last couple years, for instance, with new soil erosion problems. That seems to be a backward step needing special program attention of some kind because great progress was made at one time in this highly important field, conserving our land.

I have talked to the Senator about this matter and knew he was going to present this amendment and I told him it was a matter of my special interest and I would support it.

We ordinarily follow the rule here that it would be out of the regular order at least to be putting it on bills like this. But this one is so filled with violations of the hard rule that I do not mind waiving that. I think this subject matter must be given special attention.

I did not get the benefit of what the Senator from Mississippi said. I know whatever he says his intentions are to follow it up. I got the idea he made some reference to perhaps the future program.

But I am going to support this now, Mr. President, hoping it will be a beginning anyway that something be done on this program. I think it is well to present this amendment.

Mr. President, I do not care to take any more time at this point.

Mr. MELCHER. Mr. President, I ask unanimous consent that the Senator from Iowa (Mr. GRASSLEY) be added as a cosponsor to the amendment.

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

Mr. MELCHER. Mr. President, I say to the manager of the bill we have no further request for time. We are ready for a vote.

Mr. COCHRAN. Mr. President, I know of no other request on this side. I am prepared to yield back the time.

The PRESIDING OFFICER. Is there further debate?

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana. On this question, the yeas and nays

have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Idaho (Mr. SYMMS) and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from Colorado (Mr. HART), are necessarily absent.

The PRESIDING OFFICER (Mr. HECHT). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 67, nays 29, as follows:

[Rollcall Vote No. 145 Leg.]

YEAS—67

Abdnor	Ford	Matsunaga
Andrews	Garn	Melcher
Baucus	Glenn	Metzenbaum
Biden	Grassley	Mitchell
Bingaman	Hatch	Moynihan
Boren	Heflin	Nickles
Boschwitz	Heinz	Nunn
Bradley	Helms	Pressler
Bumpers	Hollings	Pryor
Burdick	Huddleston	Randolph
Byrd	Inouye	Riegle
Cohen	Jackson	Sarbanes
Cranston	Jepsen	Sasser
D'Amato	Johnston	Specter
Danforth	Kassebaum	Stafford
DeConcini	Kasten	Stennis
Denton	Kennedy	Stevens
Dixon	Lautenberg	Thurmond
Domenici	Laxalt	Wallop
Durenberger	Leahy	Warner
Eagleton	Levin	Zorinsky
East	Long	
Exon	Mathias	

NAYS—29

Armstrong	Hawkins	Proxmire
Baker	Hecht	Quayle
Bentsen	Humphrey	Roth
Chafee	Lugar	Rudman
Chiles	Mattingly	Simpson
Cochran	McClure	Tower
Dole	Murkowski	Trible
Goldwater	Packwood	Tsongas
Gorton	Pell	Wilson
Hatfield	Percy	

NOT VOTING—4

Dodd	Symms
Hart	Weicker

So Mr. MELCHER's amendment (No. 1389) was agreed to.

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

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I ask the Chair to again lay aside temporarily the first committee amendment in order that the Senator from Hawaii may offer an amendment.

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

The Senator from Hawaii.

AMENDMENT NO. 1390

(Purpose: To prohibit the expenditure of funds to relocate the Hawaii State office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii)

Mr. INOUYE. Mr. President, I send an amendment to the desk and ask for its immediate consideration. This amendment has been cleared by all parties and is a straightforward amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. INOUYE) proposes an amendment numbered 1390.

On page 3, between lines 16 and 17, insert the following new section:

GENERAL PROVISION

None of the funds appropriated by this or any other act may be used to relocate the Hawaii State office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii.

Mr. INOUYE. Mr. President, I ask unanimous consent that Senator MATSUNAGA be added as a cosponsor.

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

Mr. INOUYE. Mr. President, the purpose of my amendment is straightforward: It will prohibit the Farmers Home Administration from using appropriated funds to move its Hawaii State office from Hilo to Honolulu. Ever since the FmHA opened an office in the State of Hawaii, it has been located in Hilo, on the Island of Hawaii. The reasons for this location are as good today as they were in 1978: First, most of Hawaii's farmers and rural housing programs are located on the Big Island, not Oahu; second, Hilo avoids the congestion of the capital city of Honolulu; and third, it represents an important step in decentralizing Federal services in the State of Hawaii instead of concentrating them in the State capital.

Given the success of the Federal Government's original decision to locate the FmHA's State office in Hilo, you can imagine my surprise when the FmHA announced its plan in May to move the office to Honolulu. This plan was announced after 2 years of assurances that no such relocation was forthcoming. The FmHA's announcement has drawn a firestorm of criticism from across the State, including the mayor and council members of the county of Hawaii, State senators, State representatives, two chambers of commerce, more than 380 farmers, and several current employees at the USDA. Some of those opposing the move are Democrats, others are Republicans, but all agree that it is detrimental to the best interests of the FmHA and the farming community of the State of Hawaii.

Why then has the FmHA proposed to relocate its Hawaii State office? In a letter to me dated May 5, 1983, the FmHA's State director indicated that the move was intended to "fully utilize federally owned space and reduce the Federal deficit." In support of the plan, he cited annual savings in lease costs and other recurring expenses of $78,000. He also suggested the need for alterations in the "old" Hilo Federal Building should the FmHA decide to use the Federal office space available there,

Mr. President, not only has the FmHA glossed over the fact that there is Federal office space available in Hilo, but it has minimized the costs of this move, both financial and human.

The actual costs of relocating the FmHA's Hawaii State office to Honolulu are sizable. For example, the State director estimates that it will cost the Federal Government $274,000 to relocate the FmHA's personnel, office furniture, and telephone equipment. In addition, the FmHA has overlooked the fact that the cost of living is significantly higher in Honolulu than it is in Hilo and that the Federal Government will have to pay twice as much in COLA's if the FmHA moves. Indeed, several officials have estimated that based on an annual payroll of $425,000, relocating the FmHA will cost the Federal Government $45,000 each year in increased COLA payments alone.

The last straw, however, is that 16 hardworking Federal employees will be needlessly relocated: They will either have to travel to a different island or lose their jobs. In a time of high unemployment, the FmHA's plan amounts to a callous disregard for employees who have served the Federal Government and the FmHA's clients so well over the past 5 years.

Mr. President, the costs of this move certainly outweigh the benefits, and the consensus in Hawaii is clear: The FmHA's State office should remain in Hilo. Both the Senate and the House Appropriations Committees included language in their reports accompanying the supplemental appropriations bill for fiscal year 1983 disapproving the move. The Senate Appropriations Committee in particular stated:

> The Committee understands that the Farmers Home Administration intends to move the Hawaii State office from Hilo to Honolulu. The Committee disapproves of this proposal. This office was originally located outside the State capital so that it might best serve its clients, most of whom are located on the neighboring islands, not Oahu. More than 50 percent of the State's farms are located on the island of Hawaii, as are many of the housing programs served by Farmers Home. Federally owned office space is available in Hilo, and all but one of FmHA's 17 State office employees reside on the island of Hawaii. The Committee, therefore, instructs the FmHA to maintain its State office in Hilo and prohibits the use of any appropriated funds to move the office from the island of Hawaii to the island of Oahu.

I regret that the administrators at the Farmers Home Administration have accepted the proposal to relocate the Hawaii State office. I see no alternative but to offer bill language prohibiting the use of Federal funds to carry out an ill-timed and ill-conceived move.

I commend this amendment to my colleagues and urge its immediate adoption.

Mr. MATSUNAGA. Mr. President, as one of those who originally helped to convince the Farmers Home Administration to locate its Hawaii State Office in Hilo, I believe the contemplated move of this office to Honolulu would defeat the purpose for its initial location in Hilo. Hilo was selected as the site for the State office in order to make it more accessible to the farming and rural communities which it serves. Better than half of the farms in the State are located on the Big Island, while less than a quarter are on the island of Oahu, where Honolulu is situated. Although Honolulu may be the political and financial center of Hawaii, the financial institutions all maintain offices on the island of Hawaii. Hilo is the more appropriate location for this agency because of its accessibility to many of the State's important rural and farming areas, and its character as a rural city. Not only will moving the Farmers Home Administration office remove it from those who depend upon it most, it also will have a significant and detrimental economic impact on the city of Hilo. Any of the minor economic savings that arguably would accrue from this move would be offset by the hardship experienced by the agency's employees, the Hilo area, and the rural community of the State.

As its cosponsor, I urge my colleagues to join in support of the Inouye amendment, which would prohibit the use of any Federal funds to effectuate the announced move.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I want to say that, as chairman of the subcommittee with jurisdiction over this area of the bill, we recommend that the amendment be agreed to. We had included, I might point out, in the report on the bill, a statement indicating the wishes of the committee that this office not be moved, as has been contemplated by the Farmers Home Administration. The language of the amendment makes abundantly clear the position of the committee. We are perfectly happy to recommend that the amendment be agreed to.

For the purpose of having the record complete, however, I ask unanimous consent that a letter written to the chairman of the Committee on Appropriations from the Under Secretary for Small Community and Rural Development of the Department of Agriculture be printed in the RECORD at this point.

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

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., June 14, 1983.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Language in your Committee report for the Agriculture Supplemental Appropriations bill for fiscal year 1983 (report number 3069) indicates objections to moving the Hawaii State Office from Hilo to Honolulu. I would like to take this opportunity to fully define our position and reasons for making this move.

The decision to move the office was predicated on one basic overriding factor: reduce cost to the Federal Government without diminishing the high level of service to the farmers and rural residents of the island of Hawaii.

Careful financial analysis shows that the move will provide a net savings to the Federal Government of at least $500,000 over the next 10 years. The Farmers Home Administration (FmHA) county offices in Hilo and Kealakekua will remain open. Since all FmHA farm, housing and community programs are handled through county offices in Hawaii, the island's residents will continue to receive the same personalized services they now receive. The county office will remain in Hilo and no change in our services to Hawaii FmHA borrowers will occur because of the relocation of the State Office.

On March 8, 1983, the General Services Administration published new regulations which require agencies to use available Federal office space where possible. The FmHA State Office is currently leasing space in a commercial office building. The lease expires on July 31, 1983. In compliance with the new GSA regulations, FmHA requested space in the Federal Building in Hilo.

We were told by GSA that the available space in the old Hilo Federal Building is not adequate and that extensive alterations would be needed. The alterations would take 2 years to complete and cost about $180,000. Even then, the building would not provide contiguous office space, suitable conference rooms, adequate parking or facilities for the handicapped. Because of the time frame, cost and deficiencies, this was not a viable option.

In contrast, the 5-year-old Prince Kuhio Federal Building in Honolulu has 40,000 square feet of vacant space which would need only minor alterations that can be completed in 2 or 3 weeks.

In addition to these considerations, a Honolulu location would greatly enhance the efficiency of the State Office. For instance, FmHA would be in the same building with other federal agencies with whom we work very closely. The Agricultural Stabilization and Conservation Service and Soil Conservation Service are already located there. Our increased efforts to work more closely with State agencies and commercial lenders will be greatly enhanced through the close proximity to their offices in Honolulu.

Some logistics advantage would also contribute to greater cost cutting and efficiency. They range from access to the Federal Telecommunications Service (FTS telephone lines) to improved mail and airline services.

I would be less than candid if I did not acknowledge some discontent among our State Office employees over the move. They are being asked to relocate from Hilo to Honolulu. We, of course, are making every attempt to assist those who are willing to make the move and to alleviate, as much as possible, any other problems and inconveniences that may arise.

On balance, there is overwhelming evidence that moving the FmHA State Office from Hilo to Honolulu will reduce government expense and greatly increase the ability of the agency to better serve the rural people of Hawaii.

Sincerely,

FRANK W. NAYLOR, Jr.,
Under Secretary for Small Community and Rural Development.

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

The amendment (No. 1390) was agreed to.

Mr. HATFIELD. Mr. President, I again ask the Chair to temporarily lay aside the committee amendment in order that the Senator from Arkansas may offer an amendment.

AMENDMENT NO. 1391

(Purpose: A technical amendment to provide limited authority to the Economic Development Administration to approve the leasing of a portion of the Pine Bluff, Ark., Convention Center)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS), for himself and Mr. PRYOR, proposes amendment numbered 1391.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . Upon request of the city of Pine Bluff, Arkansas, the Secretary of Commerce shall authorize such city to lease to any person the banquet and kitchen facilities of the Pine Bluff Convention Center, without affecting the Federal assistance provided by a grant under the Public Works Employment Act of 1976 (project number 01-51-00020) or any other law, if such transfer documents provide for the operation of such facilities as kitchen and banquet facilities for at least twenty-five years after the date of such transfer.

Mr. BUMPERS. Mr. President, this amendment deals with the convention center in Pine Bluff, Ark., which received an EDA grant in 1971 to build a convention center. In 1976, under the Public Works Employment Act, they got additional money to build kitchen facilities and bathroom facilities. Included in that grant was a provision that the convention center might not either sell or lease those facilities. Now they have an opportunity, with the Hilton Hotel, for the Hilton to build a high-rise hotel next to the convention center, which, incidentally,

has not fared very well and will not until they have a hotel near by.

The convention center wants to enter into an agreement with Hilton Hotel under which Hilton will operate the convention facilities, that is, the banquet hall and the kitchen facilities, and pay the convention center 15 percent of its positive cash flow.

In addition to that, Hilton will operate the convention stands for the convention center and pay the convention center 18 percent of those profits.

EDA does not have the legal authority to allow the convention center, under the terms of the original grant, to lease these facilities. EDA regrets that, incidentally. I have talked to Carlos Campbell, Jim Martin, and others at EDA and they have no objection to this amendment. And this is not precedent setting. It has been done a number of times. It was done once in the State of the Senator from New York, once in the State of Washington, and it has been done other places.

The convention facility anticipated a hotel when it was built. As a matter of fact, it was anticipated that a hotel would be built and that the convention center would never really be adequate and profitable until a hotel was in fact built.

Mr. President, to summarize, in 1971, Pine Bluff, Ark., was awarded a title I grant from the Economic Development Administration for construction of a convention center. The original proposal included a request for funds for the banquet and kitchen facilities of the center. However, available funds were inadequate for full funding, so construction of the banquet and kitchen facilities was delayed. Under the Public Works Employment Act of 1976, the city applied for and was awarded funds for construction of the banquet and kitchen facilities.

The city of Pine Bluff has prepared a proposal for UDAG funds for construction of a Hilton Hotel. As a part of this proposal, the city would enter into an agreement with the hotel whereby Hilton would lease the banquet and kitchen facilities of the convention center for an initial term of 50 years with two successive optional extension periods of 25 years. In return, Hilton would spend approximately $1,000,000 to renovate the banquet area, would build a new heating and cooling facility for the hotel and the entire convention center, and would return 15 percent of their net positive cash flow to the city. Hilton would not only cater conventions but would also be the concessionaire for all events at the center, returning 18 percent of those profits to the city.

Since the Public Works Employment Act of 1976 prohibits leasing to a profitmaking organization facilities built with funds authorized by the act, the Economic Development Administration needs legislative authorization to approve the proposed lease agreement between the Hilton Hotel and the city of Pine Bluff. It should be emphasized that the city will retain title to the facilities and would only lease them to the Hilton.

This agreement would only enhance the convention center and is within the scope of the original proposal, which stated that a motel or hotel would eventually be built adjacent to the center. There are no EDA funds involved. If the UDAG proposal is approved, this project would create approximately 400 construction jobs and 130 permanent, full-time jobs. The hotel will, in fact, increase the value of the convention center by virtue of its presence, if not by virtue of its planned $1 million renovation of the banquet facilities. The city is guaranteed a return from the lease of 15 percent of the net profits from the banquet facilities, and the Federal Government and the city of Pine Bluff are protected by the lease agreement, with the right as owner to recapture the facility if the lease arrangement is broken by Hilton.

In summary, this project will not require additional EDA funds, but will enhance the Federal Government's initial investment in the convention center and banquet facilities, will provide additional revenues for the city and will increase employment opportunities in the area.

● Mr. PRYOR. Mr. President, I support my colleague's amendment to direct the Economic Development Administration to execute an agreement that would allow the city of Pine Bluff, Ark., to lease the banquet facilities at the convention center located there to a hotel as part of a plan that will bring a new hotel to the convention center site.

From the beginning, the convention center complex at Pine Bluff has suffered from the lack of nearby hotel accommodations for users of the center. For every convention group utilizing the center in Pine Bluff, transportation has had to be provided at additional expense and inconvenience. From the time of its conception, the planners of the convention center had envisioned the eventual construction of a modern hotel to serve the center. A hotel complex on the site of the center offers the prospect of greatly enhanced revenues to the city of Pine Bluff and to the Federal Government. This is the very essence of the mission of such centers and the goal of the Federal Government when it agrees to finance them.

It seems ironic, Mr. President, that the city of Pine Bluff has been faced with a very inflexible government policy in its attempts to develop a contract that would make this government-financed convention center complex an even more attractive investment for the government and a more functional convention center. I can think of nothing that could be done to enhance this facility more than the plans that have been developed and approved by the City Council of Pine Bluff. I personally regret that we have had to resort to the legislative process to accomplish these plans to protect and enhance the public interest. I urge the approval of this amendment.●

Mr. BUMPERS. Mr. President, I have cleared this with Senator LAXALT, who is chairman of the Appropriations Subcommittee with jurisdiction over EDA. I hope the amendment will be accepted.

Mr. HATFIELD. Mr. President, on behalf of the minority and majority managers, we accept the amendment.

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

The amendment (No. 1391) was agreed to.

Mr. BUMPERS. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. MOYNIHAN addressed the Chair.

Mr. HATFIELD. Mr. President, I instruct the Chair to lay aside the committee amendment temporarily in order that the Senator from New York may be in a position to offer an amendment.

Mr. MOYNIHAN. I thank my distinguished friend from Oregon.

AMENDMENT NO. 1392

Mr. MOYNIHAN. Mr. President, on behalf of myself and Senators MATSUNAGA, RIEGLE, BRADLEY, BENTSEN, KENNEDY, EAGLETON, LAUTENBERG, and INOUYE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) for himself and Senators MATSUNAGA, RIEGLE, BRADLEY, BENTSEN, KENNEDY, EAGLETON, LAUTENBERG, and INOUYE proposes an amendment numbered 1392.

On page 69, after line 23, add the following:

HEALTH CARE BENEFITS FOR THE UNEMPLOYED

For payments for health care benefits for the unemployed, $225,000,000, to be available only if a program is enacted into law providng for such benefits under title XX of the Social Security Act or under the Public Health Service Act. Any part of such amount not obligated prior to October 1, 1983 shall remain available for obligation in fiscal year 1984.

Mr. MOYNIHAN. Mr. President, I have asked that the full text of the amendment be read because it is so simple, so direct, and so comprehensible. This provides the funds for health

insurance for the unemployed that were provided for in the budget resolution in an amendment by the distinguished chairman of the Committee on Finance, the Senator from Kansas (Mr. DOLE), for this fiscal year. It has two provisos, the first being that if the money is not fully expended during this fiscal year, it will remain available for the following one.

Also, it contemplates that such benefits could be provided either under title XX of the Social Security Act or under the Public Health Services Act.

Mr. President, it was one of the more attractive and emphatic bipartisan acts of this Congress so far, that by a vote of 90 to 9, this body endorsed the proposal of the Senator from Kansas that we provide in the budget for this contingency.

It is well known in this body that the proposal for health insurance for the unemployed arose with the two distinguished Senators from Pennsylvania in the context of a tour of that State on which they had the privilege to conduct the President. Legislation is under consideration by two committees. This is going to have to be resolved and will be, in a situation where there is this much support. But money has to be provided in either outcome. This simply makes the money available in a general appropriations measure that is sure to pass and sure to be enacted into law.

The case for the measure is well known, has been eloquently made by Senators, not the least those two from Pennsylvania. The vote speaks for itself, 90 to 9.

Mr. President, I might take just a moment to point out what I am sure was simply a mistake made by Dr. Robert Rubin, the Assistant Secretary for Planning of the Department of Health and Human Services. Some months ago, Dr. Rubin stated on an evening television program, the MacNeil-Lehrer program, a respected forum, that those persons losing their health benefits that were employer based could be picked up by the State medical programs. Mr. President, this is, in some measure, technically possible. If an unemployed worker declares himself wholly destitute and eligible in consequence for welfare benefits, he is eligible equally for medicaid payments. But the great principle of unemployment insurance is that the unemployed should not be destitute, should not go through the necessarily painful, humiliating experience of productive working people who have lost employment having to declare themselves to have lost everything else as well.

More than 10.7 million persons have lost health insurance as a result of unemployment since December 1982; and of that number 7.4 million have lost their jobs. They were not changing jobs, they were not entering the labor market or reentering. They had been laid off as stated in the greatest recession since the Second World War, the Great Recession it has been called. Of these 7.4 million, 5.3 lost their health insurance coverage in consequence of being discharged, involuntarily and without fault. The recession was and is that harsh. We have not dropped below 10 million persons unemployed even yet. When you add their dependents, you have some 10.7 million persons, by the estimate of the Congressional Budget Office in December, deprived of health insurance benefits they had previously been covered by inconsequence of employment; 10.7 million people. The number cannot be significantly different today. The economic projections suggest it will not be significantly different for years to come.

This legislation is necessary, Mr. President, timely, and has the widest support in this body. I hope this simple amendment—insuring that when the legislation is enacted it can, in fact, be carried forward because the funds are available—will pass.

I see my distinguished friend from Michigan (Mr. RIEGLE), a cosponsor of this measure, has risen. I yield to him such time as he may require.

Mr. RIEGLE. Mr. President, I thank the Senator. I commend him for bringing this amendment to the floor at this time. I am pleased to join with him.

Mr. President, I think it is important to note that not only do we have the previous action of the Senate voting on this specific item, ratifying it by a vote of 90 to 9 on a strongly bipartisan basis, as a recent part of the RECORD, we are presently, in the budget conference—and I am serving there as a conferee—endeavoring to reach accord on the difference between the version the Senate has, the money that we have put in the budget for this purpose versus the sum that the House also has put in. I make the point because we are proceeding within the budget conference on this very item.

Also, in the Senate Labor and Human Resources Committee, we met this morning on a list of items, one of which was to act on the authorizing legislation on health insurance for unemployed workers. Not only do we have a strong bipartisan support shown by the earlier record vote as part of the budget proceedings in the Senate, but by these actions in other forums to carry this thing forward.

This is contingency funding in a sense that what we would do is make it available assuming then that we see the normal authorization process go forward. Were that not to be done for any reason, then, of course, these funds would not be expended. But it is very important that this be established at this time, and that we recognize the importance of moving in this direction. I hope the Senate will take this step, as we earlier did by vote of 90 to 9.

I thank the Senator for yielding.

Mr. HEINZ and Mr. MOYNIHAN addressed the Chair.

Mr. MOYNIHAN. Will the Senator from Pennsylvania yield to me?

Mr. President, I ask unanimous consent that Senator GLENN be added as a cosponsor.

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

Mr. MOYNIHAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. SPECTER. Mr. President, what is the pending order of business?

The PRESIDING OFFICER. There is not a sufficient second. The question is on the amendment of the Senator from New York.

Mr. SPECTER. We are not prepared to vote yet. Senator HATFIELD has designated me to manage this portion. There are those of us on this side of the aisle who have something to say. I think Senator HEINZ——

Mr. MOYNIHAN. Would my friend from Pennsylvania yield?

The PRESIDING OFFICER. The request for the yeas and nays cannot cut off debate.

Mr. MOYNIHAN. I did not suggest that Senators be foreclosed from debate. I asked for the yeas and nays.

Mr. SPECTER. Mr. President, I would suggest that the yeas and nays will not be necessary because Senator HATFIELD has authorized me, speaking for the Appropriations Committee, to accept the amendment for reasons which will be set forth immediately.

Mr. HEINZ. Mr. President, maybe the proper way to proceed is to ask the Senator from New York to withhold his request for the yeas and nays.

Mr. MOYNIHAN. I would be happy to.

Mr. HEINZ. I do not think he will have any difficulty getting them if he wants, but, on the other hand, it may not be necessary.

Mr. MOYNIHAN. Mr. President, I will withhold, but I will eventually ask for the yeas and nays.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I yield to my colleague from Pennsylvania (Mr. HEINZ).

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President, I think the Senate is well aware that the sentiment in this country as expressed in the previous 90 to 9 vote favors a program of emergency health care for the unemployed. As such, I think the amendment of the Senator from New York is meritorious. I intend to sup-

port the amendment. I would like to see the Senate move quickly on this matter.

Indeed, my colleague from Pennsylvania (Mr. SPECTER) and I have worked very long and hard, first, to bring this issue to the attention of the President of the United States, and then to overcome the objections of the Director of the Office of Management and Budget, Mr. Stockman, who initially had great reservations about establishing any emergency health care program whatsoever. Eventually, after not one, but several meetings at the White House, we were able to convince the Director of OMB that the case for creating an emergency program for the medical needs of the unemployed was a meritorious one. Furthermore, we convinced Mr. Stockman that we would find a way, as the Senate went on record in affirming this program, to insure that such a program would have no net effect on the budget deficits.

With that agreement in effect, the Director of the Office of Management and Budget came to the Senate Finance Committee, and he testified as to what the administration could and could not support. But in effect, what the administration said they would support—provided we found the revenues to offset the cost—was an emergency health care program of a bridging or temporary nature. They remain adamantly opposed to an entitlement program, and I know the Senator from New York does not seek to create an entitlement program by this amendment.

However, I think it is a little unusual to appropriate money in this instance for two reasons. First, it is a little unusual, because, if we have a bill from the Finance Committee that is an extension of title XX, the Finance Committee does not need an appropriation in order to do that.

I would not want—and I will pose a question to the Senator from New York on this in a minute—the Appropriations Committee to interpret any affirmative action by the Senate on this amendment as being an admission on our part that those programs which heretofore were not subject to appropriation by the Appropriations Committee, and that now are within the jurisdiction of the Finance Committee, will not, because we may accept and support this amendment, be subject to the appropriations process. In other words, I want to be sure that the amendment agreed to today, will set no precedent in that regard. I will ask my colleague about this matter of procedence in a minute.

Second, it is a little unusual, although I suppose we have done it before, to appropriate money for a program before we have acted on the authorization program.

It is true that in many of our appropriations bills, because the authorization process gets hung up, we do act on appropriations first. None of us are proud of it, but it is much more unusual to appropriate money for a program that does not yet exist.

Mr. President, until we do pass an authorization for this program, I do not know whether the amount the Senator from New York has suggested, which is $225 million for the remainder of this fiscal year, is going to be enough money. If we were to act immediately, that amount of money might not suffice. If we postponed it until—and I hope we do not—September 30, it will probably prove to be too much funding for a period of 1 month.

That is one of the reasons we do not usually, where a new program is concerned, authorize appropriations before the authorization is actually passed.

But notwithstanding these reservations, because this is a program I strongly believe in, I am willing to support my friend from New York in this instance. But I would like to ask my friend from New York, returning to the issue posed to him, if the Finance Committee, on which we both serve, decides to enact a program which would be an extension of one of our existing programs, such as title XX—a program not subject to appropriation—then, Is it the intention of the Senator from New York to subject that kind of a program of Finance Committee jurisdiction also to the jurisdiction of the Appropriations Committee?

Mr. MOYNIHAN. No; it is not save the extent that, in my understanding, this already exists. We have put fixed limitations on title XX and the money is appropriated, even though it is appropriated at the level we have established.

I would ask the chairman, more knowledgeable than I on the matter, is that not the case?

Mr. HEINZ. I think the chairman was otherwise engaged. The question is, Is title XX now subject to appropriations?

Mr. MOYNIHAN. If I may restate my question, I say that we have fixed a limit which money is appropriated.

Mr. DOLE. It is an appropriated entitlement.

Mr. MOYNIHAN. The chairman just gave us the word that we have been searching for. It is an appropriated entitlement.

Mr. HEINZ. If the committee decided that it was going to write a temporary entitlement—we may not do this, but if the committee decided that as part of the medicaid program, Would the medicaid program then be subject to appropriations?

Mr. MOYNIHAN. I think the Senator is drawing me into a field where I would not want to give an answer without preparation. Medicaid funds are again appropriated, although they are appropriated on an open-ended basis. But respecting my learned friend, who is more knowledgeable than I, having served in the Congress much longer than I, I think it would be imprudent of me to state any more than I have stated with respect to the specific bill in front of us.

Mr. HEINZ. I gather from the sense of the Senator's remarks that he does not seek to have appropriations jurisdiction over anything more than the Appropriations Committee now has.

Mr. MOYNIHAN. That certainly would be my personal desire. I hope it would be his.

Mr. HEINZ. Mr. President, that was the point I was trying to establish. We do not know how this program is going to be written. We do not want to establish a precedent we are not prepared to establish.

With that clarification, as I said—although I think this amendment comes at an unusual time and in an unusual way—I am going to support it.

Mr. MOYNIHAN. 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. SPECTER. Mr. President, I believe that my colleague from Pennsylvania, Senator HEINZ, was somewhat generous in his categorization of the submission of this amendment by the Senator from New York as being surprising.

As I had said earlier, Senator HATFIELD had designated me to speak for the Appropriations Committee on this matter and to accept this amendment. In accepting the amendment, it had been our thought that there would not be the necessity for a rollcall vote and the time that it would take. But a few minutes more or less is really of no importance.

I do thank the Senator from New York for his action today which does speed up the process. In accepting this amendment, I think it is important to note that there is a disregard of two issues here, if they can be said to be issues.

One is the appearance of who is taking credit for this amendment, and, second, the jurisdictional issue.

As to the issue of credit, those on this side of the aisle have, with deliberation, decided not to be cosponsors with Senator MOYNIHAN. But we feel it is worthwhile to recite, albeit briefly, the chronology as to where we are and where the initiatives have been and how this matter has come to the floor as it has, at the present time.

Senator HEINZ and I had occasion to have a town meeting in Midland, Pa., on March 5. That is a famous American city, because it had the misfortune

to have the major employer, a steel company, collapse and 5,000 people were thrown out of work. Among the problems which hundreds of people who crowded into that high school auditorium brought to Senator HEINZ and me on that day—and there were many problems—was the problem of health care coverage for the unemployed. It appeared to be the No. 1 priority that day.

On our return to Washington, Senator HEINZ and I decided that we would put that item No. 1 on our agenda. Our staffs went to work and prepared Senate bill 811, which we introduced just 10 days later, after working out quite a number of complexities.

On March 23, the social security bill was pending before the Senate, and Senator HEINZ and I pressed Senator DOLE on the issue of adding this measure, S. 811, to provide health care for the unemployed, on that bill.

Senator DOLE urged us—and the RECORD shows his statement on the floor—not to proceed at that time because of complexities with the social security bill, and we deferred to his judgment on the matter. He did promise a meeting as soon as possible with the administration. And the record will show that Senator DURENBERGER, as chairman of the appropriate subcommittee, promised early hearings.

The meeting with the administration took place that Friday, March 25. We had finished up the social security bill at 2 a.m. on that day, but at 10 a.m., in Senator DOLE's office, there was a group assembled: Budget Director Stockman, Secretary of Health and Human Resources Heckler, Senator DURENBERGER, and I, were present, and others were present. At that time, we put the framework into operation to move ahead with this important measure.

On April 6, President Reagan had occasion to travel to Pittsburgh, and Senator HEINZ, Governor Thornburgh, and I, had the opportunity to ride with him in the Presidential limousine. The question arose as to what questions he would be likely be asked at a question-and-answer session which was scheduled that day.

We were aware of the protocol about bringing up subjects to the President. He said he would be interested in knowing what questions the people in Pittsburgh were likely to raise, and we brought up, among other subjects, the one of health insurance for the unemployed.

The President did, in fact, receive a question on this serious problem in Pittsburgh. As the national news later commented, the new comment made by President Reagan that day was his concern and consideration of health insurance for the unemployed.

As Senator HEINZ outlined, there followed a meeting at the White House, attended by Edwin Meese, James Baker III, Senator DOLE, Senator HEINZ, Senator QUAYLE, Senator HATCH, and me, at which we moved this matter along.

There were then hearings before the Finance Committee on April 21. Perhaps Senator MOYNIHAN did not know about those hearings, because he was not present there that day.

Then Senator QUAYLE has hearings before the Committee on Labor and Human Resources on May 3, at which time the necessity for this matter was spelled out in some detail.

I had been interested in moving this matter on the appropriations bill and conferred with Senator WEICKER, the chairman of the Health and Human Services Subcommittee, and Senator HATFIELD, the chairman of the full committee, and was urged to permit the issue to follow the regular process because Senator DOLE has scheduled a markup in the Finance Committee. We did agree to insert the following report language as an indication of the Appropriations Committee's concern and support of this issue. The language appears on page 90 of the supplemental appropriations bill, 1983 Report No. 98-148.

HEALTH CARE FOR THE UNEMPLOYED

The Committee notes the ever increasing problem of loss of employer-based health insurance for unemployed workers. According to the Congressional Budget Office, almost 90 percent of the unemployed in the United States, or close to 11 million persons, have already lost their coverage, most within 30 days of job termination.

For months now, hospitals, clinics, health centers, and health service employees have been absorbing the cost of care to those unemployed workers and their families who cannot afford to pay their bills.

It is completely understandable that one of the major fears of the unemployed is the uncertainty of what will happen if someone in their family becomes ill.

Early action on health care legislation can help to remove some of that uncertainty. Early legislative action has been encouraged by the Senate budget resolution vote of 90 to 9 in favor of budget authority for health care coverage for the unemployed.

The Committee strongly urges the appropriate authorizing committees to promptly provide Congress with legislation for health care for the unemployed so that this long overdue program may be brought a step closer to reality.

The Appropriations Committee will do all it can to see that this program is adequately funded once enacted.

When I learned less than 1 hour ago that Senator MOYNIHAN had elected to proceed with this amendment, without any communication with my staff prior to noon today, there was a meeting among Senators DOLE, DURENBERGER, HEINZ, QUAYLE, and myself; and it was our decision that the most appropriate course of action, considering all the facts, would be to accept the amendment, setting forth the chronology I have just presented.

The second factor I outlined, that of jurisdiction, has already been covered by my distinguished colleague from Pennsylvania, Mr. HEINZ, so I think no more need be said on that subject. I believe the record is plain about the necessity for health coverage for the unemployed, and the record is clear as to how we have gotten to where we are today.

Mr. President, I yield the floor.

Mr. MOYNIHAN. Mr. President, I make two very small points, one of which I think is not relevant to this specific issue before us. But, for the record, the first proposal for health insurance for the unemployed to be introduced in Congress was introduced at the end of the last Congress by the distinguished senior Senator from Michigan (Mr. RIEGLE).

I thought I went out of my way to point out that in this Congress, it was Senator HEINZ and Senator SPECTER who brought the matter forward; and I point out and observe with regret that I am not a member of Senator DURENBERGER's subcommittee.

Mr. DOLE. Mr. President, I listened to the debate carefully.

I simply wished to say we are prepared, in fact, on June 30 to go ahead to mark up in our committee.

We had a little problem on who will report out what kind of a bill, whether it is going to be the Labor Committee or the Finance Committee.

We did promise Senators as well as the American taxpayers that we would not start a new program unless we could pay for it.

I feel obligated in the Finance Committee much like my predecessor Senator LONG did, over the years that if we are going to report out a new program we should try to pay for it.

We made that promise, and the only point I make is the fact if we adopt this amendment, as I am certain we will, let us keep in mind that we are going to have a markup and we are going to put together a constructive package. I hope it can be supported by nearly everyone in the Senate. But at the same time we are going to try to find some way to pay for it. We just do not add it to the debt.

I think that is the view of the Senator from New York, the Senators from Pennsylvania, and others.

So I support the efforts today, and I state that there has been a lot of discussion on health care for the unemployed on both sides of the aisle, and I know that the Senator from Pennsylvania (Mr. SPECTER) did not offer this in the Appropriations Committee because very honestly we discouraged him from offering it because we had not had the markup.

So I apologize to the Senator from Pennsylvania (Mr. SPECTER) but in any event the amendment will be adopted. The concept should be supported.

We are going to move as quickly as we can in the markup to report a bill

to the Senate floor and hopefully when that bill is reported, whether it is $1 billion, or $900 million, or whatever the cost may be, there will be some provision in that bill or a related bill to fund the program or to pay for the program.

● Mr. KENNEDY. Mr. President, I am pleased to cosponsor Senator MOYNIHAN's amendment to allot $225 million to provide health insurance for the unemployed. This money is to be appropriated subject to passage of authorizing legislation.

The need for action in this area is very great. In February of this year alone, 10.2 million people who formerly had health insurance through a family members job has lost their coverage. In 1984, over 9 million workers receiving unemployment benefits on whose benefits expired within the last 2 years will be without health insurance coverage at some point during the year. If dependents are included, a staggering 19 million people will fall in this category.

Within the last few weeks, the Labor and Human Resources Committee heard from just a few individuals who had experienced the human tragedy that loss of health insurance can cause. Needed care was deferred; life savings were lost and large debts incurred; in one case, the death of a baby may result from lack of insurance coverage. These cases are just the tip of an iceberg with 19 million vulnerable people at its base.

I am hopeful that our committee will report a bill to provide needed relief within the near future. This bill has been developed as part of a bipartisan effort to meet this need. While the $225 million in funding provided by this amendment is just a start on the problem, it is very important that we begin now to prevent repetition of the many human tragedies that have occurred over the the last few years because this insurance coverage has not been available.●

Mr. HATFIELD. Mr. President, in my capacity as chairman of the Appropriations Committee, as well as in my capacity as an elected representative from a State which has been bludgeoned by double-digit unemployment rates, I am pleased to speak on behalf of the amendment offered by my colleagues from New York, and Pennslyvania, and other States.

Mr. President, the ugly underside of this Nation's unemployment problem has surfaced in the area of health care. The overwhelming majority of Americans in this country secure health insurance through their place of employment. They either receive it outright as an employee benefit, or they purchase health insurance directly from companies accustomed to offering health benefits to employee groups.

But what happens when the job which serves as the predicate for this health coverage disappears? What is the person who suddenly finds himself or herself and dependents without health insurance to do? Well, Mr. President, the answers to these questions are disturbing. They sit and worry about the potential financial disasters which would attend a sustained illness or period of hospitalization. They postpone medical treatment for minor injuries or maladies, only to watch their medical conditions worsen. And Mr. President, if they are unfortunate enough to have to seek hospitalization or extended health care, they fall victim to the assault occuring all over this country where sky rocketing medical care costs bleed bank accounts dry and precipitate swift financial disaster.

There are over 12 million people in this country who are unemployed. It has been estimated that about half of this group has already lost coverage under employment-related health insurance programs. Studies have also shown that as the duration of one's unemployment grows, the ability of the individual to continue to finance individual health care costs and to pay insurance premiums diminishes. And even though there are signs that our economy is recovering and that the unemployment rates are improving, the problem facing this country persists. That is because there is an entry lag period during which a newly hired employee must wait before he or she becomes eligible for health insurance. One study found this period to be at least 3 months long for a quarter of all new workers.

So, Mr. President, although Congress has been swift to address the plight facing the unemployed through supplemental benefits and extended benefits, Congress has been conspicuously silent in the face of a dilemma inextricably entwined with the recession. Oregon's adult and family services division and the State employment division have kept me informed of the perilous situation facing county and State health facilities that are now absorbing new groups of indigents and the attendant costs involved with that care. I believe this amendment offered by my colleagues is a reasonable response to a national crisis. This amendment will target $225 million to the States to provide assistance to the millions of people who not only have lost their jobs, but have lost their health insurance protection.

I am pleased that we can accept this amendment, and in so doing, can address a problem that for too long has been ignored in the mad scramble to involve the Federal Government in the pressing problems facing this Nation's unemployed.

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

The PRESIDING OFFICER. Is there further debate?

Mr. SPECTER. Mr. President, let me add one more response to Senator MOYNIHAN.

It was not a hearing by Senator DURENBERGER's subcommittee of which Senator MOYNIHAN says he is not a member. It was a hearing held by the full Finance Committee of which Senator MOYNIHAN is a member.

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

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

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Idaho (Mr. SYMMS) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART) is necessarily absent.

The PRESIDING OFFICER (Mr. ABDNOR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 75, nays 23, as follows:

[Rollcall Vote No. 146 Leg.]

YEAS—75

Andrews	Eagleton	Mathias
Baker	Exon	Matsunaga
Baucus	Ford	Melcher
Bentsen	Glenn	Metzenbaum
Biden	Grassley	Mitchell
Bingaman	Hatch	Moynihan
Boren	Hatfield	Murkowski
Boschwitz	Hawkins	Packwood
Bradley	Hecht	Pell
Bumpers	Heflin	Percy
Burdick	Heinz	Pryor
Byrd	Hollings	Quayle
Chafee	Huddleston	Randolph
Chiles	Inouye	Riegle
Cochran	Jackson	Roth
Cohen	Jepsen	Sarbanes
Cranston	Johnston	Sasser
D'Amato	Kasten	Simpson
Danforth	Kennedy	Specter
DeConcini	Lautenberg	Stafford
Dixon	Laxalt	Stevens
Dodd	Leahy	Thurmond
Dole	Levin	Tsongas
Domenici	Long	Warner
Durenberger	Lugar	Weicker

NAYS—23

Abdnor	Humphrey	Rudman
Armstrong	Kassebaum	Stennis
Denton	Mattingly	Tower
East	McClure	Trible
Garn	Nickles	Wallop
Goldwater	Nunn	Wilson
Gorton	Pressler	Zorinsky
Helms	Proxmire	

NOT VOTING—2

Hart	Symms

So Mr. MOYNIHAN's amendment (No. 1392) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats or leave the Chamber. Senators will either take their seats or retire to the cloakroom.

Mr. HATFIELD. Mr. President, I inquire if the Senator from New Hampshire is in the Chamber. I wish to indicate that we have now sequenced in the following order the next amendments: Senator QUAYLE, Senator WILSON, Senator HUMPHREY, Senator DURENBERGER, Senator KENNEDY, and then Senator MATTINGLY and Senator BUMPERS, which we expect will take some time. That is the so-called education amendment. But these others should take a very short time if the Senators would only come to the floor to offer their amendments.

Again, they are Senator QUAYLE, who is here, Senator WILSON, Senator HUMPHREY, Senator DURENBERGER, Senator KENNEDY, and then we will move to Senator MATTINGLY and Senator BUMPERS.

Mr. President, I ask the Chair, on behalf of the managers, to set aside temporarily the committee amendment in order that the Senator from Indiana may offer an amendment.

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

AMENDMENT NO. 1393

(Purpose: To extend the availability of funds for developing parks and recreation areas)

Mr. QUAYLE. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana (Mr. QUAYLE) proposes an amendment numbered 1393.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

AVAILABILITY OF FUNDS FOR DEVELOPING PARKS AND RECREATION AREAS

Notwithstanding any other provision of law or any rule or regulation, any amount appropriated by Public Law 98-8 under the heading "DEVELOPING PARKS AND RECREATION AREAS" shall remain available for grants for projects involving the planting of trees or shrubs until December 31, 1983.

Mr. QUAYLE. Mr. President, under the Emergency Jobs Act for 1983, Public Law 98-8, the Small Business Administration (SBA) received additional appropriations for making grants to States for developing parks and recreation areas. In order to promote the efficient use of Federal funds, I am offering an amendment to extend, in limited cases, the deadline for carrying out projects funded by those grants.

In the Emergency Jobs Act of 1983, we established deadlines for the expenditure of funds to insure that the money is spent to hire the unemployed during the crisis period, when unemployment is at its peak. I supported that effort and I introduced amendments to further that goal.

It was not foreseen that this deadline date for SBA grants for developing parks and recreation areas might cause unnecessary waste or force the program to be poorly administered. But that is the case with the grant received by my home State of Indiana.

As a condition for receiving a grant under this program, the Governor must certify that all projects will be completed by October 1, 1983. One of the permissible activities under this program is planting trees and shrubs. The best time to plant most trees and shrubs is when they are dormant. However, in order to meet the October 1 deadline, all trees and shrubs would have to be planted during the summer months, when they are not dormant.

As result, contractors will charge higher rates because they know that if trees and shrubs are planted when they are not dormant, they will have to replace a higher percentage of them.

The Indiana State Department of Natural Resources and the Indiana Parks and Recreation Association have brought this problem to my attention. I want to thank them for taking the initiative to see that our tax dollars are spent more efficiently.

My amendment would simply permit projects involving the planting of trees or shrubs to be carried out until December 31, 1983. This amendment would be limited to projects of that nature. In addition, since all economic forecasts predict that unemployment will remain high for all of 1983, this amendment will not be subverting the congressional intent that money be spent to hire the unemployed during this period of high unemployment.

Mr. President, I have talked with both the majority and minority managers on this issue. I have talked with the chairman of the subcommittee. It is my understanding that there is no problem with the amendment.

As I said, the deadline in the emergency jobs legislation was brought to my attention by the Indiana State Department of Natural Resources and the Indiana Parks and Recreation Association. The deadline will be extended from October 1, 1983, until December 31, 1983.

Mr. President, I yield the floor and ask for the adoption of my amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. HATFIELD. Mr. President, this matter has been cleared with Senator LAXALT, the chairman of the subcommittee. We are willing to accept it on our side of the aisle.

Mr. STENNIS. Mr. President, we have examined this amendment on this side and we approve of the amendment and know of no opposition.

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

The amendment (No 1393) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I again ask the Chair to temporarily set aside the committee amendment in order that the Senator from California (Mr. WILSON) may offer an amendment.

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

Mr. WILSON. Mr. President, I thank the distinguished manager of the bill.

AMENDMENT NO. 1394

(Purpose: To provide for the lease or sale of the George P. Scotlan Memorial Convention Center Building)

Mr. WILSON. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California (Mr. WILSON), for himself and Mr. CRANSTON, proposes an amendment numbered 1394.

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

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

The amendment is as follows:

At the end of the bill insert the following new section:

SEC. . Upon request of the City of Oakland, California, the Secretary of Commerce shall authorize such City to sell or lease to any person the George P. Scotlan Memorial Convention Center building, without affecting the Federal assistance provided under the Public Works and Economic Development Act of 1965 (project numbered 07-01-02471), or any other law, if—

(1) such sale or lease provides, for the operation of such facilities as a Convention Center for at least sixty-five years after such transfer; and

(2) in the event of the sale of such building, the repayment of any grant made pursuant to the Public Works and Economic Development Act of 1965 shall—

(A) be made over a period of thirty years;

(B) provide that no payments shall be made for the first fifteen years of such period; and

(C) be made in equal annual installments over the last fifteen years of such period.

Mr. WILSON. Mr. President, I am today proposing an amendment to H.R. 3069 which will allow the city of Oakland to sell its convention center and to use all proceeds from that sale to further the economic development of downtown Oakland. I am happy to say that I am joined in offering this amendment by my distinguished colleague, the senior Senator from California (Mr. CRANSTON).

This would not be a matter for this legislative body to consider but for the fact that the Oakland Convention Center, known as the George P. Scotlan Memorial Convention Center, was built, in part, with the help of Economic Development Administration funds. EDA regulations require a grantee to repay the grant if the property is sold during its useful life. This amendment would waive the requirements in much the same fashion that Senator BUMPERS sought for the Pine Bluff Convention Center, but there is a significant distinction here. The amendment provides that the convention center will continue to be used as a convention center, and, more significantly, in the event of a sale there will be repayment in full of the grant from the Economic Development Administration.

The only waiver that is sought is that instead of immediate repayment, repayment may be scheduled over a period of years sufficient to allow the city of Oakland to achieve its purpose of using the proceeds from the sale for the economic development downtown.

Mr. President, I urge adoption of the amendment.

Mr. CRANSTON. I am happy to support this amendment being offered by my colleague from California (Mr. WILSON).

The Oakland Convention Center is the city's primary downtown economic development project. But ancillary economic development in the downtown area is necessary to the convention center's success.

The ancillary development is not possible without the proceeds from the sale and leaseback transaction because Oakland's economic position has changed drastically since plans for the convention center were initiated in 1978. Proposition 13, depletion of the State budget surplus and subsequent California State aid, and cuts in Federal funding have resulted in cuts in Oakland's budget unprecedented among California cities and significant increases in taxes and fees, providing a disincentive for business to locate in Oakland.

Leverage of Oakland's investment and that of the Federal Government through the sale and leaseback of the convention center will increase related convention center business, attracting more visitors and providing services to the surrounding economically depressed neighborhoods. The proceeds from the sale could be used to subsidize convention center activities in its early years, purchase or refinance local farmers markets, rehabilitate Victorian commercial structures in the downtown area, build an additional downtown hotel, construct a cogeneration plant to provide inexpensive heating and cooling for the convention center, among other projects.

Oakland's population is 60 percent minority, and has a high percentage of older people. The unemployment rate is one of the highest in California—14 percent overall. Unemployment among minority youth is 50 percent and 23 percent among minority adults.

This amendment will permit the sale and leaseback of the Oakland Convention Center and thereby facilitate much needed economic development in that city. I understand Oakland will make a good faith effort to repay the Federal funds over a period of 30 years.

I urge adoption of the amendment.

Mr. DOLE. Mr. President, this Senator has announced his plan to introduce legislation which will remove most, if not all, of the tax benefits currently available from sale and leasebacks of municipal property. Such transactions permit State and local governments to subvert the democratic process by which voters may control borrowing by State and local governments, create lucrative new tax shelters for private investors, and obtain backdoor Federal financing for projects that the Congress has never approved. This Senator believes very strongly that such deals must be limited.

The amendment before us, however, does not address the tax benefits for such transactions. This amendment merely waives certain Commerce Department regulations in order to facilitate one such possible deal. Accordingly, this Senator does not oppose this amendment. Providing for repayment of the grant over an extended period is more desirable than providing a complete forgiveness. But other Senators should be on notice that this Senator believes that special tax benefits for such deals should not be permitted. The legislation that will be introduced, as I announced on the floor of the Chamber last month, will deny the lucrative tax benefits sought from deals like this, effective generally for property placed in service after May 23, 1983.

Mr. HATFIELD. Mr. President, I believe I am correct that on inquiring of the authorizing committee whether they approved of this, the Senator did inquire of the committee. Is that correct? The Senator did inquire of Senator STAFFORD?

Mr. WILSON. That is correct.

Mr. HATFIELD. And Senator STAFFORD indicated approval of the Senator's amendment?

Mr. WILSON. The Senator indicated no objection. Senator LAXALT was also consulted as was the Senator from Kansas (Mr. DOLE).

Mr. HATFIELD. We do try to work with each of the authorizing committees to make certain that the amendment is acceptable. It is acceptable to the majority side.

Mr. STENNIS. If the Senator will yield, we accept the assurances given by the Senator from California and there is no objection to this amendment.

Mr. WILSON. I thank the Senator.

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

The amendment (No. 1394) was agreed to.

Mr. WILSON. I thank the Chair.

Mr. HATFIELD. Now, Mr. President, I again ask that the Chair set aside temporarily the committee amendment in order that the Senators from Georgia and Arkansas may offer an amendment.

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

Mr. HATFIELD. Mr. President, I yield to the Senator from Georgia to raise the amendment. The Senators have been notified that the amendment would be brought up at this point.

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

Mr. HATFIELD. Mr. President, I will ask the Senator to withhold that.

Mr. President, I yield the floor to the distinguished Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 1395

(Purpose: To provide a per capita income adjustment to a grant which a local educational agency is eligible to receive under subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) for himself and Mr. MATTINGLY, proposes an amendment numbered 1395.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

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

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

The amendment is as follows:

On page 72, between lines 9 and 10, insert the following:

GENERAL PROVISION

SEC. 101. (a) Section 111(a)(2) of the Elementary and Secondary Education Act of 1965 is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D) and by inserting after subparagraph (A) the following:

"(B) The grant which a local educational agency is eligible to receive under this subpart for a fiscal year shall be further adjusted by dividing the amount of the grant determined under subparagraph (A) by the quotient obtained by dividing the per capita income for the State in which the local educational agency is located by the per capita income for all the States (exclusive of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands), except that the quotient in no case shall be less than .85 nor more than 1.15. The adjustment required by this subparagraph shall not apply to the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

(b) Section 111(a)(2)(C) of such Act (as redesignated by subsection (a)) is amended by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraphs (A) and (B)".

(c) Section 111(a) of such Act is amended by inserting "(A)" after "(4)" and by adding at the end thereof the following:

"(B) For the purposes of this subsection, the term 'per capita income' means with respect to a fiscal year, the total personal income in the calendar year ending in the second fiscal year preceding the fiscal year for which the determination is made, divided by the population of the area concerned in the calendar year preceding such calendar year (or if not available the year for which the most recent satisfactory data are available from the Department of Commerce).".

AMENDMENT NO. 1396

(Purpose: To provide an adjustment to the grant which a local educational agency is eligible to receive under subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965)

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

Mr. BUMPERS. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. WEICKER. Mr. President, I believe as soon as the amendment was read the Senator from Arkansas lost the floor and the Senator from Connecticut, the manager of the bill, was recognized to ask that further reading be dispensed with.

Mr. MATTINGLY. May I ask a question of the Senator from Connecticut?

The PRESIDING OFFICER. The Senator from Connecticut also lost the floor.

Mr. WEICKER. But I was recognized to send an amendment to the desk.

Mr. BUMPERS. A point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Does the Senator's unanimous-consent request that further reading of the amendment be dispensed with give the Senator from Connecticut the floor?

The PRESIDING OFFICER. It does not, but he requested the floor.

Mr. BUMPERS. The Senator from Georgia has been on his feet ever since I offered the amendment.

The PRESIDING OFFICER. It is customary for the Senators to rise and request the Chair's permission to be recognized. In the judgment of the Chair, the Senator had asked it.

The Senator from Connecticut.

Mr. WEICKER. Mr. President, I have sent an amendment to the desk. I ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an amendment numbered 1396 to the Bumpers amendment numbered 1395.

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

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

The amendment is as follows:

Strike all after page 1, line 3, and insert in lieu thereof the following:

SEC. 101. (a) Section 111(a)(2)(A) of the Elementary and Secondary Education Act of 1965 is amended—

(1) by striking out "In" and inserting in lieu thereof "Subject to subparagraph (B), in";

(2) by striking out "80 per centum" each place it appears and inserting in lieu thereof "70 per centum"; and

(3) by striking out "120 per centum" each place it appears and inserting in lieu thereof "110 per centum".

(b) Section 111(a)(2) of such Act is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following:

"(B)(i) The aggregate amount of grants determined under subparagraph (A) for all local educational agencies located in a State for each fiscal year shall not be less than one-half of 1 per centum of the amount determined for all local educational agencies under subparagraph (A) for such fiscal year. The amount of the increase in any grant which a local educational agency in any State shall be eligible to receive by reason of the application of this division for each fiscal year shall be determined on a pro rata basis.

"(ii) The aggregate amount of grants which all local educational agencies located in a State are eligible to receive under this subpart may not be increased for any fiscal year in an amount which is greater than 50 per centum of the amount which all such agencies in that State received under this subpart in the fiscal year preceding the fiscal year for which the determination is made.".

(c) Section 111(a)(2)(C) of such Act (as redesignated by subsection (b)) is amended by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraphs (A) and (B)".

(d) Section 111(a)(2)(D) of such Act (as redesignated by subsection (b)) is amended by striking out "32 per centum" in clause (ii) and inserting in lieu thereof "28 per centum".

(e) The amendments made by this section shall take effect with respect to the school year 1983-1984 and thereafter.

Mr. MATTINGLY. Mr. President, will the Senator yield for a question?

Mr. WEICKER. Of course I yield for a question.

Mr. MATTINGLY. Does the Senator from Connecticut not agree that in our recent conversations we agreed that the Senator from Arkansas was to offer an amendment and the Senator from Georgia was to offer a second-degree amendment and no one else would try to offer a second-degree amendment?

Mr. WEICKER. My distinguished friend from Georgia raised the matter on Friday and I specifically could not give him the assurance that there would not be a second-degree amendment offered to the amendment of the Senator from Arkansas. It was at that point that my good friend from Georgia raised the matter with the majority leader. But I could not give that assurance to the Senator from Georgia and never did, and I would not. If I had, I would certainly have permitted him to go ahead and have his amendment.

Mr. MATTINGLY. I would say that probably we had a misunderstanding between the distinguished Senator from Connecticut and myself because I was under the impression that both the Senator from Connecticut and the distinguished Senator from Vermont indicated that would be the agreement. I think without a doubt it was very clear to all parties. Thank you, Mr. President.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I raise a point of order on whether or not the amendment of the Senator from Connecticut is properly drafted.

The PRESIDING OFFICER. It is properly drafted as a perfecting amendment.

Mr. WEICKER. Now, Mr. President, I yield to the Senator from Vermont.

Mr. STAFFORD. Mr. President, I rise to oppose the amendment offered by the Senator from Arkansas (Mr. BUMPERS) which would make radical changes in the formula that funds assistance to the States under the chapter I program of the Education Consolidation and Improvement Act.

Senator WEICKER and I have offered an alterantive to the formula that the distinguished Senator from Alabama has proposed. We take this action reluctantly and with regret. I have offered the sponsors of this amendment the opportunity to bring their issue before the Subcommittee on Educa-

tion, Arts and Humanities. I had hoped that that offer would be accepted.

I am still prepared to hold hearings on this matter in September, and I would undertake to bring legislation out of the Subcommittee on Education, Arts and Humanities, of which I am the Chairman, to the full committee also this fall so that the matter could be examined in the proper way, in the legislative way, a procedure which the amendment being proposed this afternoon completely derails.

We might as well dispense with the legislative committees if we are going to simply come to the floor on appropriations bills and do the legislating here without any opportunity for the committees in question to carry out the function for which they are designed.

I had hoped the formula debate on the floor could be avoided, but I suppose formula fights are not new; they are as old as Federal aid itself. But, the amendment offered by the Senator from Arkansas has only recently been revealed to my colleagues and to the educational community and the public.

In fact, we are being asked to make this radical change after preliminary notices have been issued to the States by the U.S. Department of Education regarding the chapter I allotments the States can anticipate in the coming year.

All of us are aware that the chapter I allotments are those which fund the Federal participation in the program for disadvantaged children in this country.

My own State of Vermont would gain money if the amendment of the Senator from Arkansas were adopted, but even so, I cannot support the proposal. Indeed, the Commissioner of Education of Vermont opposes the proposal.

It is not that Vermont could not use the extra money for education. We surely could. But it would not be fair to the other States because Vermont's gain would come through a change in the formula that could damage the very integrity of the entire chapter I program.

It may be helpful to examine the rationale for the existing formula, which was created in 1974 and was adopted in the Senate as an amendment offered by the then Senator from Arkansas (Mr. McCLELLAN).

The idea of the chapter I program—formerly known as the title I program—is to provide additional funds to local school districts to help economically disadvantaged youngsters. Thus, the idea is to provide extra money for poor children to pay for compensatory educational programs.

Thus, at the heart of the present formula is the number of poor children in the schools. That number is gathered by using the results of the decennial census and its count of children in families whose incomes are below the poverty level.

But there are also variations in the costs of educating students in different States. Thus the formula also includes a factor that takes into account these cost differences.

Those differences are reflected by using the State average per pupil expenditures. But limits are placed on those differences. A cost factor for each State can be no lower than 80 percent of the national average or higher than 120 percent of the national average per pupil expenditure.

In general, those limits provide protection for the poorer States and restraints on the richer States.

But, now we are being told that this formula is unfair.

What has changed to make the present formula unfair?

What has changed, I say to my colleagues, is the census count of children aged 5 to 17 below the poverty level. That is the 1980 census count.

Because the allocation of Federal aid funds for the 1983-84 school year will be based on the 1980 census figures, those States that have lost larger numbers of poor children in the decade between 1970 and 1980 want to change the rules of the game.

The census count was deemed in 1974 to be the best measurement for the allocation of these Federal moneys, but that count does not seem so attractive to some States this year.

Thus, we have a proposal to introduce a new factor which is more attractive. That factor is called inverse per capita income and it is offered as a new way to allocate chapter I funds.

Let us first examine whether the amendment offered by my friend the able Senator from Arkansas, meets the test of equity, as has been represented.

In the 1970 census, the State of Arkansas had 155,135 children aged 5 to 17 in poverty families. In the 1980 census, that number had dropped to 109,490 children—a decline of 29.4 percent.

If we continue to use the present chapter I formula, with its 85-percent, old-harmless provision, Arkansas would receive only a 9.8-percent decrease in Federal funding for the new school year of 1983-84, despite its nearly 30-percent decrease in eligible children.

However, under the amendment offered by the Senator from Arkansas, his State would experience a funding reduction of only eight-tenths of 1 percent to go with its decline of nearly 30 percent in the number of poor children.

Let us take another State. The State of Nevada, which experienced a 31-percent increase in its count of poverty children, would receive a 7.3 percent cut in Federal funding under the proposal offered by the Senator from Arkansas.

I submit that any proposal that would respond to a 30-percent decline in poor children in one State by cutting aid less than 1 percent, while cutting Federal aid by 7 percent to another State that experienced a 30-percent increase in the number of poor children appears to this Senator, at least, to fail any test of fairness.

In truth, we should make no changes without lengthy and thoughtful legislative consideration of the consequences.

Surely we should make no change that diminishes the weight the present formula gives to the numbers of poor children—for it is those poor children we seek to help.

But, if the only way to prevent radical and destructive changes to the present formula is to propose changes that are not so radical or destructive, than I am prepared to take that course of action.

AMENDMENT NO. 1396

Mr. President, the amendment which Senator WEICKER and I have offered—Senator WEICKER has offered it—is in the second degree as a perfecting amendment to the Bumpers amendment. I wish to explain it very briefly.

First, I have offered this amendment with Senator WEICKER because it does less violence to the existing situation and the present distributive formula for chapter I than does, in my judgment, the Bumpers amendment.

Presently, the amount distributed under the basic grant portion of the chapter 1 law is calculated as I suggested earlier, by multiplying the count of children aged 5 to 17 in poverty families times 40 percent of the State average per pupil expenditure. The State per pupil expenditure is often referred to as the cost factor because it reflects the differences in educational costs from State to State.

Yet, for those States below 80 percent of the national average per pupil expenditure, they shall be raised to 80 percent of the national average per pupil expenditure—or p.p.e.—for purposes of the formula. Also, those States which are above 120 percent of the national p.p.e. would have their State p.p.e. reduced to 120 percent. Thus, the formula neither rewards those States with per pupil expenditures considerably above the national average nor penalizes the States who spend the least for education.

The amendment this Senator proposes would simply change the bounds on the cost factor from 80/120 to 70/110. Also, the amendment would provide that no State would receive less than 0.5 percent of the basic grant except that any State receiving additional moneys because of the application of the minimum grant could not

receive an increase greater than 150 percent of its previous year's allotment.

Mr. President, that essentially is the amendment Senator WEICKER and I have offered. By moving the cost factor's bounds down to 70/110, we are not rewarding the State with the highest p.p.e. as much, but at the same time we are not rewarding those States which choose not to spend as much money for the education of their children.

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I want to commend the senior Senator from Arkansas on his proposal to amend the distribution formula for chapter I of the Education Consolidation and Improvement Act. I know that much time and effort have gone into the development of his formula and that his concern is to best serve disadvantaged children under chapter I. I am sympathetic to the intent of the amendment. Certainly, I welcome its allocation of additional funds to Utah. Utah has consistently been among the top handful of States in the amount of money it spends on education versus its resources—it has strained itself in the establishment of a quality education system more than have others, and I have long felt that this commitment deserved relief such as that offered by the Bumpers amendment.

However, as the chairman of the committee with jurisdiction over the Education Consolidation and Improvement Act programs, I must object to the consideration of this formula change as an amendment to an appropriations bill. This tactic, of course, denies the Labor and Human Resources Committee its right to hold hearings and deliberate on the matter, and should be avoided for any authorizing legislation. The denial is far more serious in this case, however, because of the importance of the chapter I formula. Chapter I's $3 billion-plus funding makes it far and away the largest Federal education program at the elementary and secondary level. Its formula directly determines the flow of chapter I dollars to local educational agencies. For the Senate to make a change of such magnitude as that proposed here without referral to committee is indefensible.

In this key formula, competing interests and needs must be carefully balanced to give the fairest results for all, and especially for the disadvantaged children served by the program. This can only occur through deliberate and thorough consideration in committee of this and alternative changes to arrive at the best one. Occasions for the restructuring of this formula come rarely, and we have no excuse for not taking the time to make sure the version we pass is the very best and most equitable.

Now it may be that the Bumpers amendment is in fact the best that can be constructed, but we will never be able to verify that here today. It is rediculous to believe that the just balancing of interests, the resolution of conflicting claims of equity and injustice, can be accomplished by a few minutes' discussion on the floor of the Senate. Instead, without on the spot being able to get to the bottom of the claims to be made for and against this and the substitute amendments, we will today, by-and-large simply vote our pocketbooks. Is this the type of reflection we owe these disadvantaged children?

On the other hand, the reluctance of the sponsors of the amendment to send it into committee as a separate bill cannot spring from any fear of a hostile reception there. This formula change benefits the States of a majority of members both of the Education, Arts and Humanities Subcommittee, and of the full Labor and Human Resources Committee. Senator STAFFORD, the subcommittee chairman, has offered to hold prompt hearings. If the amendment is introduced as a separate bill, I myself am committed not only to making sure we report out of committee a formula which better serves the children of Utah than the present one, but also to making sure this is not accomplished at the unfair expense of children in other States.

For these reasons, I believe it is essential that the Senate safeguard the interests of disadvantaged children and honor the perogatives of the Labor and Human Resources Committee by refusing a vote on the merits of the amendment at this time.

Mr. SASSER. Mr. President, compensatory education is one of the Nation's most important efforts to equalize educational opportunity; chapter I represents the largest single category of Federal aid to elementary and secondary education. The concept of compensatory education stems from the recognition that children from disadvantaged backgrounds frequently do not enjoy the same educational benefits as their peers. Many attend schools in districts that have low overall revenues or high concentrations of disadvantaged families, and such circumstances place special strains on the schools and adversely affect the general development of pupils. Compensatory education is intended to ease those problems by providing disadvantaged children with additional services to help them complete their education on more equal terms.

Congress had three purposes in mind when it enacted title I, now chapter I. First, it sought to provide additional financial assistance to school districts serving large numbers of students from low-income families and to the schools with the greatest number of such students. Second, Congress sought to fund special services for low-achieving children in schools with low revenue levels. And third, Congress intended title I programs to contribute to the cognitive, social, and emotional development of participating students. Recent studies demonstrate that the purposes of chapter I are being accomplished. In its congressionally mandated study, the National Institute of Education reported that elementary school pupils participating in title I gained 7 to 12 months in reading achievement and 11 to 12 months in mathematics achievement for each year in the program and that title I funds are primarily used to provide supplementary instruction in the basic skills of reading and mathematics to eligible educationally disadvantaged pupils. A federally financed study administered by the Educational Commission of the States found—

> Students with poor academic track records made some big gains in reading—and held their own in mathematics and science—over the course of the seventies. . . . [and that] disadvantaged youngsters and low-achieving students made considerable gains . . . especially in elementary school.

Mr. President, I support the Bumpers-Mattingly amendment because it will improve the equity of the chapter I formula by targeting funds to those States with the greatest percentages of children from low-income families.

Since 1965, the chapter I allocation formula has favored wealthier States because the only measure of fiscal effort used in the formula has been each State's average cost of instruction per pupil. Per pupil expenditures correlate positively with the fiscal capacities of the State: States with relatively high per capita personal incomes are usually better able to generate tax revenues to pay for education. The result has been that States with the lowest per capita personal income and highest percentage of children from low-income families are also the States who receive, on the average, the lowest payment rate per pupil. Let me illustrate.

The eight States with the lowest per capita income have an average per capita personal income of $8,278 and their average per pupil expenditures are $1,790. The eight highest per capita income States average per capita income is $11,858 and their per pupil expenditures average $2,702. The national averages are $10,517 and $2,436, respectively.

Under current law, assuming chapter I is fully funded, States at the lower limit of the payment rate would receive about $694 per pupil while States at the upper limit would receive $1,041. The eight highest per capita income States would average about $938 per pupil. Thus, the wealthiest States would receive, at full funding, on the average of $244 more per pupil. Furthermore, the eight States with

the lowest income have, on the average, 22.4 percent of their schoolchildren from low-income families while the eight highest income States have, on the average, only 11.6 percent of their school-age population from this segment of society.

The Bumpers-Mattingly amendment would improve the equity of the chapter I formula by recognizing that States with lower fiscal capacity should be compensated more equitably. Whereas, under the current formula, 19 States with 44 percent of the eligible children would receive 49 percent of the funds, under this amendment, the allocations to these States would decline to 45 percent of the funds. Of the 32 States which benefit under the amendment—those States having 56 percent of the eligible children and now receiving only 49 percent of the funds—their share of chapter I funds will rise to 55 percent.

Mr. President, 21 percent of the schoolchildren in Tennessee are from low-income families. Our State ranks 43d in per capita income. Coupled with over 13-percent unemployment, it is clear that Tennessee is in no position to generate more tax revenue to make up the nearly $3 million decrease in chapter I funds that would result under the current formula—that is $3 million less than the 1982-83 allocation.

In conclusion, I urge my colleagues to support the Bumpers-Mattingly amendment and the commitment it embodies: To equalize educational opportunity.

Mr. PRYOR. Mr. President, I support this amendment, being offered to the supplemental appropriations bill, that would increase the allocation of chapter I funds. In voicing my support, let me add that a total of 32 States would have their funds increased at a time when our educational system in those States needs help more than ever before.

The chapter I program was originally intended to assist the States in providing improved education for educationally deprived children living in low-income areas. The allocation formula has been revised periodically in order to comply with the intent of the law.

The formula now under operation uses the average cost of instruction per pupil in each State as the principal criteria. Naturally this overlooks the fact that a number of States are wealthier than others. We believe the formula should be an accurate reflection of the true needs of each State—and of the students within that State.

Put simply, our amendment would allocate funds to those States with the greatest percentages of children from low-income families. In many States, the total number of school-age children coming from low-income families has dropped in the past decade. But many of them still have large concentrations of children in poverty. And if the present formula continues it is these States that will get a disproportionately small share of the funds.

In Arkansas alone, chapter I funds in fiscal year 1983 were $37,500,000. Under the existing formula, we would receive only $33,800,000 this next year. This is a reduction of over $3.5 million.

Mr. President, there is 100-percent participation by the Arkansas school districts in chapter I funds. In the 926 schools participating, nearly 72,000 students are served by the program. Should funds be reduced further, it does not mean that services would be curtailed. It means that fewer students would receive the services.

Let me quote briefly from the recent report issued by the National Commission on Excellence in Education:

> Some 23 million American adults are functionally illiterate by the simplest tests of everyday reading, writing and comprehension. About 13 percent of all 17-year-olds in the United States can be considered functionally illiterate. Functional illiteracy among minority youth may run as high as 40 percent.

The needs are clear and pressing. Our amendment would not ask for more money to support a bloated Government bureaucracy. It simply asks for a more equitable and fair distribution of the available funds.

Mr. PERCY. Mr. President, I oppose the amendment offered by the distinguished Senator from Arkansas (Mr. BUMPERS) and will vote accordingly. The amendment would change the formula for allocating funds to State and local education agencies under chapter I of the Education Consolidation and Improvement Act, compensatory education for disadvantaged children, by introducing per capita income.

My major reason for opposing this measure is simple. A legislative change of this magnitude should not take the form of a floor amendment without the benefit of the full legislative process. There has not been 1 day of hearings on this proposal before the appropriate committees. Therefore, no one really knows what the impact of it will be. Few matters we debate on the Senate floor are as complicated as formulas of this nature, involving billions of Federal dollars. At the very least, any change ought to be thoroughly studied and weighed by the Education Subcommittee prior to full Senate consideration.

Second, I am concerned about this particular proposal because it introduces per capita income into the formula. Proponents of the new formula contend that per capita income reflects adequately a State's capacity and effort to provide services.

Last year, the prestigious Advisory Commission on Intergovernmental Relations, which has been studying the matter of per capita income as a measure of fiscal capacity, stated the following:

> The Commission finds that the use of a single index, resident per capita income, to measure fiscal capacity seriously misrepresents the actual ability of many governments to raise revenue. Because states tax a wide range of economic activities, other than the income of their residents, the per capita income measure fails to account for sources of revenue to which income is only related in part. This misrepresentation results in a systematic over- and understatement of the ability of many states to raise revenue.

The Commission goes on to recommend to the Federal Government that a new measure of fiscal capacity be utilized, such as the representative tax system developed by ACIR, which reflects the wide diversity of revenue sources which States currently use.

While the Commission does not address tax effort, which is distinct from tax capacity, it would seem that per capita income would be just as lacking a measure as it is with capacity, and perhaps more so.

Mr. President, this theme was also sounded by the General Accounting Office in a March 9, 1983, report to the Congress on the medicaid formula. GAO criticized the formula used to establish Federal reimbursement rates for state medicaid spending as "not as equitable to the States as it could be." This, GAO said, was because per capita income, a key formula factor, does not adequately reflect the greater tax burden of States with a high proportion of the needy and because it is not the best available measure of States ability to finance medicaid from State revenue sources.

These criticisms of per capita income cannot be discounted. And if the purpose of introducing per capita income into the formula is to measure a State's tax capacity and/or effort, I seriously question whether it would accomplish that goal, based on the recommendations just cited.

This underscores my first point about the need for full and thorough review of this proposal prior to its consideration.

Last, I oppose the amendment because while Illinois has experienced an increase in the number of disadvantaged children in the last decade—the children which are the target of chapter I programs—it will lose money under this new formula.

In 1970, Illinois had 310,636 children eligible for chapter I programs. In 1980, that number rose to 341,574. In fiscal year 1983, Illinois will receive $120 million in chapter I funds. Its fiscal year 1984 estimate is $133 million under current law. If the proposed amendment were adopted, Illinois could expect to receive only $123 million, a $10 million cut. The current law increase in funds is due to the fact that Illinois' population of children in

families below the poverty level has also increased.

I fail to see the logic in cutting funds to States that stand to gain funds because their populations of poor children increased. I ask unanimous consent that a letter I sent to Chairman STAFFORD be included in the RECORD, and also a copy of the Chicago Sun-Times editorial about this issue.

Mr. President, for all these reasons I intend to oppose the amendment and urge my colleagues to do likewise, at least until we have had the opportunity to study the full impact of this proposal.

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

U.S. SENATE,
Washington, D.C., May 27, 1983.

Hon. ROBERT T. STAFFORD,
Chairman, Subcommittee on Education, U.S. Senate, Washington, D.C.

DEAR BOB: I am deeply concerned by recent reports that a proposal may be offered on the Senate floor to significantly alter the formula for allocation of funds to the countries under Chapter I of the Education Consolidation and Improvement Act, education for disadvantaged children.

According to estimates prepared by the Illinois State Board of Education, this proposal would reduce my state's allocation by 7.3 percent—almost $10 million in Fiscal Year 1984. As I understand the new formula incorporated in this proposal, the state average per pupil expenditure would be divided by the ratio of state to national average personal income per capita and the resulting amount would be multiplied by the eligible Chapter 1 child population to determine county payments. The present formula, as you know, does not include per capita income.

This proposal has the effect of penalizing states like Illinois. Ironically, those that would lose the most money under this proposed formula are the very states which have the highest concentrations of poor children.

This new formula would make major changes in the allocation of funds to states to assist them in educating disadvantaged children. As such, it should not be undertaken precipitiously. To consider it on the Senate floor without the benefit of full and thorough study by the appropriate Senate committees is a profound injustice to the states which would be adversely affected and a gross disservice to the children this program is intended to serve.

I urge you to oppose any such effort until we have had the opportunity to subject this proposal to the full deliberation of the legislation process. If I can assist you in any way as you study this matter, please don't hesitate to call me.

Warm personal regards,

CHARLES H. PERCY,
U.S. Senator.

[From the Chicago Sun-Times, June 9, 1983]

SUN BELT ROBBERY

Frost Belt senators should beware of a cunning proposal that would rob their states of their fair share of federal education aid for disadvantaged students.

The plan, being pushed by the Senate's Sun Belt bloc, would base the aid partly on a state's per capita personal income. States below the average national income would get more money; high-income states would get less.

It sounds fair on the surface, but it's not.

Per capita income is not a valid measure of a state's ability to tax itself to meet its needs. Many states with relatively low personal income raise huge amounts of money through severance taxes on minerals.

Nor does it measure the cost of providing an education. Minnesota and Texas have the same per capita income, but Minnesota's education costs are 9 percent above the national average, while Texas' are 19 percent below.

The program in question, the Education Consolidation and Improvement Act, was designed to provide supplemental services to the poor, not to redistribute income from state to state. The transfer of wealth from Frost Belt to Sun Belt is progressing rapidly anyway, thanks to private economic decisions and misguided federal policies; it needs no further boost from the government.

The Sun Belt proposal would cost Illinois $10 million next year. Sen. Charles H. Percy (R-Ill.) is trying to beat it back and we hope other senators support him.

Mr. KENNEDY. Mr. President, I rise in opposition to the amendment offered by my good friend, Senator BUMPERS.

I am sorry that this amendment has been offered because it forces the Senate to indulge in one of its most unpleasant activities—a formula fight over the distribution of a multibillion program. My State of Massachusetts is a loser under this formula, to the tune of $2.8 million, in its expected allocation in fiscal year 1984. I suppose that none of my colleagues are surprised at my opposition to the amendment, given these facts. After all, that is the nature of a formula fight: Winners love the formula and losers hate it.

However in this case, that is not the only reason that I am opposing this amendment. It is not even the primary reason for my opposition. I believe that this is quite simply the wrong time and the wrong vehicle to consider the issues raised by this amendment. There are reasons and times to circumvent the established legislative procedures, but this is certainly not one of them.

The proponents of the amendment claim that this is not a major change in the funding formula. They note that this is a change in only one of the several factors that are employed to determine the allocations under chapter I. Nevertheless, this change results in a drastic reallocation of funds under this program. Almost $200 million would be redistributed among the States as a result of this amendment. Under no circumstances could this be considered a minor change.

I have listened today to the arguments made by both the proponents of the change and by its opponents. I listened to the same arguments during two meetings of the Labor and Human Resources Committee. I can sympathize with those Senators who are trying to protect their States from a precipitous loss of funds. I can understand their desire to right what they claim is a longstanding wrong. But I can also sympathize with those Senators whose States are anticipating increases in funds mainly because I am one. The arguments I have heard demonstrate to me that this is a complex issue—with equities weighing in on both sides. It cannot be, nor should it be, resolved after only a brief floor debate, today.

Senator STAFFORD has clearly indicated his willingness to hold hearings on this subject. I believe that this body should defer any action on this matter until the Senator, through his Education Subcommittee, is permitted to fully consider the issues and equities raised by this amendment.

I understand the fear of some Members that their States will, in the interim, suffer the very precipitous loss in funds which they, with their amendment, are attempting to prevent. We faced this same fear last year when the Department of Education tried to choose between using the 1970 census date or the 1980 census data for determining the allocation to the States. We in the Congress crafted a compromise to insure that no State suffered a precipitous loss in funds due to the indecision of the Department. I am hopeful that a similar compromise can be crafted today which protects those States which fear a precipitous loss in funds, but which at the same time leaves chapter I formula unchanged until the Education Subcommittee is able to conduct hearings on the subject.

I urge my colleagues to allow the normal legislative mechanism to run its course.

Mr. D'AMATO. Mr. President, I rise in strong opposition to the amendment offered by the Senator from Arkansas, and urge its rejection by the Senate.

The title I program, now chapter I program, was originally enacted back in 1965 as part of the Elementary and Secondary Education Act of 1965. It is by far the largest single program of Federal assistance to our Nation's elementary and secondary school students, currently providing more than $2.6 billion in funds to over 13,000 school districts. These vital funds are used to increase the educational attainment of economically disadvantaged children.

Specific statutory formulas govern the distribution of these funds to counties and States. These formulas are quite complicated, but essentially are based on two factors. The first is the most recent census count of poverty-level children in a county or State plus a small portion of AFDC children. The formula also includes a cost factor, that is the cost of providing

educational services. Together these two factors—count of poverty-level children and the State per pupil expenditure—succeed in fulfilling the objective of the chapter I program, and, that is to supplement educational programs and services for disadvantaged children.

The amendment before us would change this distribution formula which has stood for many years by adding a per capita income component. This amendment is bad on both procedural and substantive grounds. Procedurally, it simply does not reflect well on the greatest deliberative body in the world to change formulas in such an essential program on an appropriations measure and without the benefit of any hearings on this issue. Changing formulas in this way will set a disastrous precedent for this body.

It is my understanding that the chairman and ranking minority member of the Senate Education Subcommittee has offered the proponents of this amendment hearings on this formula issue, and that is precisely the course which this matter should follow. Interested parties and experts in the field would be able to provide information so that the Senate could make a decision based on informed, intelligent debate, not a 1-page sheet on who wins and who loses. As the National Education Association said in a letter to me dated June 7: "If a formula change is to occur, NEA embraces a procedure that is as fair and above board for all concerned parties."

On the substance side, the current chapter 1 formulas represent a delicate compromise. These formulas are predicated on the count of poverty-level children in a county and State and the State-average-per-pupil expenditure, and as such channel funds to the economically disadvantaged children of this Nation.

Last year, during the court battle over the use of the 1980 census to distribute chapter I funds, an amicus brief filed by several of the Senators who would benefit from this amendment stated that shifting a single block of the formula will unbalance the entire structure. We should heed this advice and not change the formulas in this program.

The Department of Education will now quite correctly use 1980 census data to distribute chapter I funds. The States which have experienced increased levels of poverty-level children will appropriately receive more funds to meet the needs of this increased population. Conversely, those States which have lost poverty-level children will have their funds reduced. These formulas will direct Federal funds to the intended beneficiaries of the chapter I program.

The per-capita-income factor which this amendment seeks to introduce will not further the goals of the chapter I program. The purpose of chapter I is to target funds for supplemental educational purposes, not to redistribute Federal funds based on per-capita-income differences among the States.

Moreover, per-capita income is not a measure of fiscal capacity. As a recent GAO report regarding medicaid stated: "per capita income, which serves as an indicator of the State's needy and as a measure of the State's tax capacity is a poor measure of both."

Fiscal capacity is measured by a State's ability to raise revenue through taxes. Some States have been experiencing growing economies and tax bases. However, these States have not increased their commitment to education. We should not be rewarding this disinclination to put forth the local effort which simply must be put forth. The State-average-per-pupil expenditure factor which exists in the current title I formula recognizes a State's effort and encourages the State to continue that effort.

I might paranthetically note that because of a 120-percent ceiling on this per-pupil-expenditure factor existing in law, my own State does not receive all that it should. Ideally, I would like to lift that cap altogether so that my State would receive its fair share. But I recognize that the formula debate in 1965 resulted in a delicate compromise.

Mr. President, school districts are expecting their chapter I payments for the 1983-84 school year in July. Changing these formulas will cause undue delay in the distribution of these funds and will wreak havoc on the planning and budgeting processes of the Nation's local school districts.

Mr. President, I feel very strongly on both substantive and procedural grounds that this amendment be rejected. I doubt that there are more than a handful of Senators here who understand all of the nuances of this formula debate. I certainly do not profess to be an expert. It is precisely because of the complexity of this issue that hearings should be held and this amendment should be rejected.

I greatly appreciate the efforts of Senator STAFFORD to head off this attempt by the Senator from Arkansas. Let there be no mistake about it, I firmly believe that there should be no changes in the chapter I formulas; however, the Weicker-Stafford amendment does less harm than the Bumpers amendment.

Mr. LEVIN. Mr. President, I am opposed to the amendment offered by my good friend and colleague from Arkansas. The amendment would change the formula for allocating chapter I Elementary and Secondary Education Act funds by shifting money to low per capita income States at the expense of States with large numbers of poor school-age children and high per-pupil costs. This amendment would cost my State of Michigan $2,898,000. It will cost many other deserving States substantial sums of chapter I funding.

Chapter I of the Elementary and Secondary Education Act provides Federal funds for compensatory education for disadvantaged children. Under current law, funds are allocated to States on the basis of the number of school-aged children at or below poverty, using 1980 census data, and on the basis of a State's average per-pupil expenditure, thereby assuring that funding levels correspond to States with the greatest costs and concentrations of poor children. For the purpose of calculating formula allotments, a States' per-pupil expenditure has a floor of 80 percent and a ceiling of 120 percent of the national average, bringing low- and high-spending States closer into line with the national median cost.

The Bumpers amendment would substitute per capita income as the measure of a State's need for chapter I funding—despite the intent of the program to focus funding on poor school-aged children.

Mr. President, chapter I is not an income redistribution program. The purpose of chapter I is to provide supplemental educational programs for poor children. It was not created to be an income redistribution program which equalizes the differences in per capita income among the States.

The current chapter I formula is a result of a delicate, comprehensive compromise. During the litigation on the chapter I formula last year, 50 Senators and Congressmen filed an amicus brief on behalf of the States contesting the use of 1980 census data. The amici, led by our colleague Senator DENTON, stated the following:

> In constructing this compromise in 1978, Congress acted deliberately and carefully to build a balanced package. . . . Congress tried to include something for each geographic region; something for urban areas and for rural areas; something for rich states and for poor states; something for large states and for small states. . . . Thus, shifting even a single building block of the formula will unbalance the entire structure.

Mr. President, the use of the 1980 census directs funds toward the current location of poor children. Some States have smaller numbers of poverty children, as shown by the 1980 census data, and as a result, they will have their chapter I payments reduced. Use of the 1980 census, however, directs Federal program dollars to where the increased numbers of poor children are located. It targets the program to the intended beneficiaries. I simply cannot emphasize this point enough—the funds are appropriately directed where the need is greatest.

Mr. President the current chapter I formula essentially boils down to two elements:

First, directing funds to where the poor children are located; and

Second, providing supplemental funds to school districts based on the average cost of running an education program in that State—40 percent of the average per pupil expenditure in the State.

The application of the per-pupil cost factor corrects for State and regional differences in the cost of providing education services. These two factors taken by themselves adequately channel program funds to meet the stated purpose of the act.

It is important to note that the current cost factor already boosts low effort States. As earlier stated the per pupil expenditure cost factor is modified by raising States whose per-pupil expenditure is below 80 percent of the national average up to 80 percent, and by lowering those whose per-pupil expenditure is above 120 percent of the national average down to 120 percent. Consequently, 13 States which have per-pupil expenditure below 80 percent have their per-pupil expenditure inflated to 80 percent, and 10 States which have a per-pupil expenditure above 120 percent have their per-pupil expenditure reduced to 120 percent.

Additionally, there is a provision in current law which holds school districts harmless at 85 percent of their previous year's allocation. This minimizes the impact of any loss of funds due to use of the 1980 census data for those schools which otherwise would lose even more. In any case, it must again be emphasized that the purpose of the program is to provide funds for programs to serve poor children on the basis of the most recent available count.

Finally, Mr. President, it has been contended that the use of an AFDC child count in the current formula biases the distribution of funds in favor of the wealthier States. The fact is that the AFDC factor includes only those children in families receiving AFDC with incomes above the poverty level for a nonfarm family of four as updated annually by the CPI. As the poverty income level has been increasing with CPI, the number of AFDC children counted in the formula has been decreasing rapidly—minus 79 percent from 1980 to 1984. In 1984, the AFDC count represents only 1.1 percent of the total poverty count for chapter 1. This small percentage, the only poverty count updated annually in chapter 1, can hardly be viewed as a strong bias. Again, I urge my colleagues to join me in opposing the Bumpers amendment. This proposal, calling for the inclusion of per capita income in the chapter 1 formula, would have the effect of redirecting funds to States which are losing poor students, and of making payments at levels unrelated to the actual cost of providing supplemental educational programs in a particular locale.

● Mr. DODD. Mr. President, chapter I of the Education Consolidation and Improvement Act of 1981 continues a categorical program first adopted by Congress in 1965. The sole purpose of which is providing Federal assistance for the education of disadvantaged children.

The formula for distributing chapter I funds among the various States acknowledges this purpose. Since 1965, State allocations have been based on the percentage of needy students in each State. When the formula was changed in 1974, no attempt was made to change that governing philosophy. The change was intended to provide a more accurate count of the disadvantaged children we want to help.

From its inception as title I, then, this program was never intended to reduce State and local responsibilities for education. It was never intended to be a general assistance program. Rather, the purpose of this legislation was, and remains, to help equalize access to quality education for all American children regardless of family income, home address, or national heritage. Its distribution formula reflects that laudable goal.

The amendment under consideration would change the intent of the program by distributing Federal moneys on the basis of per capita income.

The effect of such an amendment would be a significant reduction of Federal support for programs for disadvantaged children in a number of States. More importantly, it would alter the fundamental character of the program itself. Instead of being targeted to needy children, title I would become a form of interstate revenue sharing.

Many of the States and localities which would lose funds because of such an amendment would be hard-pressed to make up these losses. They are, for the most part, already paying steep taxes for higher teacher salaries, improved school facilities, and sophisticated materials and equipment necessary to insure a quality education. In essence, they have made every effort to offer sound educational programs for all students within their jurisdiction.

One of the great ironies of such an amendment would be to increase Federal support for education in those areas with declining poverty rates. On the other hand, it would sacrifice programs for disadvantaged children in areas where the poverty rate has not significantly changed, or in many instances, where the poverty rate has increased.

In an effort to comply with this proposed amendment, many States would be forced to reduce the quality of education in one area to compensate for the loss of Federal funds in another. A second alternative, equally as unfortunate, would be to allow an educational caste system to develop. Ultimately this would mean that students lucky enough to live in high-income areas would be able to attend good schools and receive a quality education. Students residing in low-income areas, students residing apart from their parents, and students of limited English-speaking proficiency would be offered educational programs of lesser quality simply because promised Federal funds had been withdrawn.

The record shows that title I has been judged to be highly successful in terms of providing quality programs and services for disadvantaged school children. I strongly support maintaining this program as initially intended. To adopt an amendment which discounts the degree of poverty within each State would be to establish another revenue-sharing program rather than maintain title I's intent—a quality education for educationally disadvantaged students.●

Mr. LAUTENBERG. Mr. President, I want to express my strong opposition to any effort to change the formula for distributing chapter I education aid through an amendment to the supplemental appropriations bill. The Senate floor is not the appropriate place to begin making major changes in a carefully crafted formula.

Chapter I—known for years as title I—provides funds for compensatory education for disadvantaged children. The formula for these funds focuses on the number of disadvantaged children living in a jurisdiction. This seems to me to be the proper factor to consider in distributing the funds. If others disagree with the approach in current law, then the Labor and Human Resources Committee is the proper forum to examine those concerns and consider changes in the formula.

Mr. President, chapter I is the largest single Federal education program. Under current law, my State of New Jersey is scheduled to receive $87.2 million for the 1983-84 school year. These funds are vitally needed to support compensatory education programs for children who live in some of the poorest areas in this country. As I said the other day, Mr. President, when I first addressed this body, we must see to it that all our children have an equal chance to get the education they need to grow and succeed in America today. The main route out of poverty for today's children, as it was for children of my generation, is through education. Chapter I funds have been very helpful in my State, as in others, in stretching limited tax dollars which are devoted to education.

Although I oppose any amendment to this bill which would alter the chapter I funding formula, I will support the compromise which will allow my State to receive its full share of 1984 chapter I funds.

Mr. BRADLEY. Mr. President, we can continue to debate the merits of both of the amendments pending before the Senate. But the fact of the matter is that we should not be debating a formula change on this bill. The underlying first degree amendment offered by the Senator from Arkansas has had no hearings. The sponsors of the amendment have not yet even introduced legislation on the issue. Therefore, I think it appropriate for the Senate to first address whether the underlying first degree amendment is in order prior to any significant debate on the issue.

Therefore, Mr. President, I make the point of order that the underlying first degree amendment is legislation on an appropriations bill.

Mr. BUMPERS. Mr. President, I raise a question of germaneness.

The PRESIDING OFFICER. Under the rules, the question is submitted to the Senate.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. An additional inquiry. Is there any language in the House bill—OK, I raised the point of germaneness. 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. COCHRAN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Mississippi will state his parliamentary inquiry.

Mr. COCHRAN. Is there time for debate on the point of order at this time in the proceeding?

The PRESIDING OFFICER. There is not.

Mr. COCHRAN. There is no time for debate at this point?

The PRESIDING OFFICER. No time.

Mr. COCHRAN. I thank the Chair.

The PRESIDING OFFICER. The question before the Senate is whether the Bumpers amendment is germane to the House legislative language. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. EAST), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Idaho (Mr. SYMMS) are necessarily absent.

I further announce that, if present and voting the Senator from North Carolina (Mr. EAST), and the Senator from Idaho (Mr. SYMMS) would each vote "yea."

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from Colorado (Mr. HART) are necessarily absent.

The PRESIDING OFFICER (Mr. SPECTER). Are there any other Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 35, nays 60, as follows:

[Rollcall Vote No. 147 Leg.]

YEAS—35

Abdnor	Domenici	Melcher
Baker	Exon	Mitchell
Baucus	Ford	Nickles
Bingaman	Grassley	Nunn
Boren	Hawkins	Pressler
Bumpers	Heflin	Pryor
Burdick	Helms	Sasser
Chiles	Hollings	Stennis
Cochran	Huddleston	Thurmond
Cohen	Jepsen	Trible
DeConcini	Johnston	Warner
Denton	Mattingly	

NAYS—60

Andrews	Hecht	Packwood
Armstrong	Heinz	Pell
Bentsen	Humphrey	Percy
Biden	Inouye	Proxmire
Boschwitz	Jackson	Quayle
Bradley	Kassebaum	Randolph
Byrd	Kasten	Riegle
Chafee	Kennedy	Roth
Cranston	Lautenberg	Rudman
D'Amato	Laxalt	Sarbanes
Danforth	Leahy	Simpson
Dixon	Levin	Specter
Dodd	Long	Stafford
Dole	Lugar	Stevens
Durenberger	Mathias	Tower
Eagleton	Matsunaga	Tsongas
Garn	McClure	Wallop
Gorton	Metzenbaum	Weicker
Hatch	Moynihan	Wilson
Hatfield	Murkowski	Zorinsky

NOT VOTING—5

East	Goldwater	Symms
Glenn	Hart	

The PRESIDING OFFICER. The amendment is not germane.

Mr. BRADLEY. Mr. President, I move to reconsider the vote by which the amendment was ruled to be not germane.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

AMENDMENT NO. 1397

(Purpose: To provide for an equitable modification in the grants which local educational agencies are eligible to receive under subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965)

Mr. BUMPERS. 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 Arkansas (Mr. BUMPERS) proposes an amendment numbered 1397.

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

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

The amendment is as follows:

On page 71, between lines 22 and 23, insert the following:

ELEMENTARY AND SECONDARY EDUCATION

For an additional amount for subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965, $103 million to be available for the payment of grants to local educational agencies located in a State in which the aggregate amount of grants determined for such agencies from amounts appropriated for fiscal year 1983 prior to the date of enactment of this Act is less than the amount of grants determined for the local educational agencies in that State from amounts appropriated for fiscal year 1982 by reason of the application of the 1980 Census data in order to increase the amount for local education agencies in each such State to the amount determined for that State for fiscal year 1982: *Provided*, That the amount of the increase in any grant which a local education agency in any State shall be eligible to receive by reason of the application of this paragraph shall be determined on a pro rata basis.

It is the intention of the Congress that for each fiscal year ending prior to September 30, 1987, an additional amount will be appropriated, as necessary, for the payment of grants to local educational agencies in all States subject to the provisions of the previous paragraph in order to increase the amount for local educational agencies in each such State for each such fiscal year to the amount determined for that State for fiscal year 1982.

Mr. BUMPERS. Mr. President, a point of order was made a moment ago before the proponents of the amendment had an opportunity to be heard. I am going to be heard on this amendment one way or the other, win, lose, or draw.

But this amendment that I have just offered has a hold harmless clause so that States such as mine would not be severely penalized as we will be if we do nothing.

I have read two or three editorials in the past 2 weeks referring to my efforts, and the efforts of the Senator from Georgia, as a very parochial Southern effort, and that somehow or other the chapter 1 formula is sancrosanct, and that the Senate should not tinker with it.

First of all, I wish to point out that this formula has been changed four times since title I was passed in 1965.

Other editorials and articles have said that Senator McClellan, the Senator from the State of Arkansas, who was chairman of the Appropriations Committee, actually drafted this formula. Let me put Senator McClellan's efforts in context.

What Senator McClellan did was to try to defend the State of Arkansas and a lot of other States similarly situated from what was an inexorable effort to modify the formula coming

from the wealthier States, which would have had an even more devastating effect than the present formula would have had back then, and all he did was to say that no school district would get in any given school year less than 85 percent of its allocation for the previous year. Further, they made sure that the per pupil expenditure used in the formula for each State would be no less than 80 percent of the national average per pupil expenditure. Senator McClellan was simply attempting to protect the poorer States by making sure that the formula contained allocation floors. His effort was merely defensive. He succeeded, but the basic inequities in the formula continued.

I want everyone to know two or three things that they just voted on.

No. 1, by defeating that amendment the 1980 census is going to be used, and the title I funds are going to be distributed under the existing formula without adjustment for State per capita income. A lot of Senators voted against the amendment saying "I think the money ought to go where the poor children are." If that is their concern, then they should have voted in favor of my amendment.

I can tell the Senate that if this formula is not changed—and unless we change it today there is no earthly way to change it before the allocation is made on July 1—will you say the current formula is fair when 56 percent of all the chapter 1 money is going to go to 51 percent of the children? Let me repeat that: 56 percent of all the money under chapter 1 is going to the States that have only 51 percent of the poor children. That is the kind of fairness that Senators just voted for. No. 2, the question is often raised:

> Why do you not make a greater effort, you Southerners, you lethargic Southerners? Why do you not make a greater effort to educate your children?

Well, you will be surprised to know that of the 10 States of this country that have over 20 percent of their children below the poverty line, 8 of them are indeed in the South, and in those 8 Southern States you will also be surprised to know they make a much greater effort in educating their children than the 8 wealthiest States in this country make.

They contribute a greater percentage of all public revenues—local, county, city, and State—than the eight wealthiest States in this country contribute.

So is it fair to penalize some of the poorer States, which are spending a greater proportion of their income to educate their children than the eight wealthiest States in the Nation, is it fair to penalize them further?

I am not asking everybody in this body to be parochial. I do not think the formula that I designed is perfect. But I want you to explain this to me: What is fair about the existing formula that treats the 49th poorest State in the Nation, namely Arkansas, what is fair about giving us $338 in 1983 per child, and cutting us by $33 per child to give us $305 in 1984? Is that fair? If your State was the State I was talking about, would you think it was fair? And neither the existing formula nor my formula even comes close to addressing one of the basic problems, and that is those school districts that have deep pockets of poverty, and God knows I have got plenty of them in my State. The whole point of the Chapter 1 program is to alleviate the education problems created by large concentrations of extremely poor children. This legislative purpose is stated in the first section of the act. Yet the formula in current law does not deal with this problem.

Some of you are from urban areas—I have been in some of those areas in Philadelphia and New York and Detroit—and I am not trying to penalize you. I want you to get every dime you can get and you can have every dime you are scheduled to get under the existing formula. I applaud you. You need it, you are entitled to it, and I will vote for it, but not when you get your share by penalizing the poorer States in the country, and that is what the existing formula does.

I have been nauseated reading some of the editorials about how fair the existing formula is, how it was crafted by a Southerner, and how terrible this is that some of us would tinker with it. Well, it is just a very simple question: Is it equitable to penalize States like mine and even Utah, States like Kentucky, Louisiana, North Dakota, Maine, Vermont, New Hampshire, Arizona, New Mexico—they are not Southern States—and it is not fair to penalize them either.

I do not want to fight the war all over again. I want the urban States to get exactly what they are entitled to get, and so the new amendment I have just sent to the desk, Mr. President, is a hold-harmless clause.

The fact that Arkansas and Mississippi and Louisiana and New Mexico and Arizona and several other States have fewer children below the poverty line now is a source of gratitude to all of us. I could not be happier. But I can tell you we still have deep pockets of poverty, we still have a lot of children on AFDC, and we still have a lot of children in institutional homes. I invite the Senator from Connecticut or the Senator from Vermont or the Senator from any State to tell me why it is fair to take $30 a child, or even more in some States; why would we want to spend less per child in the poorer States and more per child in the richer States when we poorer States are making a bigger effort than you are, as a percentage of our income, to educate our children? That is what this amendment is all about.

I am raising the question here because I do not think it is fair, and I do not think many people within earshot think it is fair. I am not trying to cut the wealthier States. You have your problems, and we have ours. So I have offered this amendment, Mr. President, which will hold each school district 100 percent harmless for the 1983-84 school year; it will cost $103 million, but if the Education Commission report means anything it is that we are not doing a good job of educating the very children we are talking about here today, the poorest children, and we are certainly not going to redress the problem by cutting 32 States back from what they are getting right now.

Does it make any difference whether I have 40,000 children in Arkansas below the poverty line or 20,000? The fact that we have fewer children now means we have done better and, as I say, we are euphoric about it, we are pleased with it, but is that a justification to cut back on the amount of money when most of our poverty is in deep-seated pockets just as it is in Newark, just as it is in the Bronx, and just as it is in a whole host of cities across the country?

Mr. MATTINGLY. Will the Senator yield?

Mr. BUMPERS. I yield.

Mr. MATTINGLY. I do not intend to support this amendment. I want to talk about the original Bumpers-Mattingly amendment. I am extremely concerned about education and the well-being and future of the disadvantaged children in our country. I was up front and honest in my approach.

Just recently, as everybody knows, Secretary Bell released the findings of the National Commission on Excellence in Education. The report brought into focus a fact that we all know is true: the educational system of our country is in serious trouble.

Education has always been the foundation of our country and our society. It affects our democratic way of life, our economy, our well-being, and the health and happiness of our people. Every State must be able to offer quality programs if our Nation is going to be strong and productive. The Mattingly-Bumpers amendment would have corrected a deficiency in the way in which Federal funds for elementary and secondary education programs were going to be allocated to the States.

The fact is that the current formula is biased in favor of the wealthier States and that is because the only measure of fiscal effort used in the allocation formula has been each State's average cost of instruction per pupil.

The problem is that the measure only considers expenditures and not

fiscal capacity. A State's per pupil expenditure correlates highly with the fiscal capabilities of that State, and those States where per capital income is high have a greater ability to generate tax revenues to finance education than do those States where per capita income is low. The result is that when you apply the current formula, those States that are rich get richer and those that are poor get poorer, and I do not mean rich just in terms of dollars. I mean rich in terms of their ability to offer educational programs for their children. That is not right and that is not fair.

The key issue is that the formula change would have put Federal education money where the eligible children are. The 19 States that would have received less funding, under our proposal had 44 percent of the eligible children. Under the current law, they receive 49 percent of the chapter I funds. The 31 States that would have received an increase in chapter I funding have 56 percent of the eligible children under current law. These States now receive only 51 percent of available funds. Under the amendment that Senator BUMPERS and I offered, they would have received 55 percent of those funds.

So it is clear the amendment that was offered would have corrected a tremendous imbalance in the allocation of Federal dollars.

During the past year there have been a lot of discussions on the formula issue. In fact, had chapter I gone through the proper reauthorization process we would be discussing the issue right now. I am not as concerned about procedure as I am about the education of children. I have stood on the floor of the Senate and I have heard at one time or another most Members speak about their concerns for education.

I think if we had been truly concerned about education, we would have adopted the amendment and taken a step forward for education. I regret that we did not because we let the children of our Nation down.

All Senator BUMPERS and I were asking was that you vote to send the money where the children who need help are located. The way to do that is to include per capita income in the distribution formula. The poorer States, the ones least able to raise the money on their own for these educational programs, would only have ended up getting their fair share of the available funds.

My own State of Georgia would have gotten more from this proposal, that is true, along with about 30 other States. I wish it were not so, though. I wish my State were rich enough to be among the small number of States that would have gotten less funds under our amendment. I wish we had as much money as we do good sense and sunshine in Georgia, but we do not.

If we are ever going to see our children catch up we have to make sure that they get their fair Federal share of Federal education dollars. That was the purpose of the Bumpers-Mattingly amendment.

Mr. WEICKER. Mr. President, I am going to be brief before yielding to my distinguished colleague from New York.

First of all, let me say this to my colleague fom Arkansas. I want to make sure he has ample time to expound his views on this subject, but I wish to alert him to the fact that I will probably raise the same point of order against this amendment.

Mr. BUMPERS. Mr. President, I would plead with the Senator not to do that.

Mr. WEICKER. Mr. President, I am giving my colleague a chance to take as much time as he wants, but to alert him as to what is in the back of my mind. I can assure him I have absolutely no intention of depriving him of one sentence of time.

In response to the arguments made here that need to be dealt with to a far greater length and with far more knowledge by the distinguished Senator from New York, since he was one of the original drafters of the original package, very simply, in the present formula the money follows the children.

Now, if we have a redistribution of income proposition out here on the floor, that is fine. But, insofar as the educational purposes are concerned, the money follows the children. It is as simple as that. I cannot think of anything more fair.

I yield to my distinguished friend from New York.

Mr. MOYNIHAN. Mr. President, I cannot expand upon the statement that the distinguished Senator from Connecticut has just made. The principle of the 1965 Elementary and Secondary Education Act, of which the present legislation was originally part, was that the money would follow the children. Mr. President, I will take a moment of the Senate's time to ask: Which children?

Now, there is a specific place and time when this legislation began. Senators will recall it was the first Federal aid to education of a general nature ever to be enacted by the Congress. The history is a simple one.

President Kennedy proposed general legislation. It was not passed by either Congress until after his assassination. He had put into place in the Executive Office of the President a task force to study the issue of poverty, to investigate whether general programs of the kind he was seeking in education would not be more successful if they were focused on a specific problem.

President Johnson, immediately upon taking office, saw the viability of that measure and the justice of it. In 1963, the President of the United States declared war on poverty. The Economic Opportunity Act of 1964 was adopted. Thereafter, children in poverty, aged persons in poverty—persons generally in that circumstance—were to be a special concern of Federal legislation. The Federal Government was henceforth to make such matters its particular concern.

In 1965, consistent with pledges made in the 1964 Democratic platform and the 1964 campaign generally, the administration and the new Congress understood their mandate to be: Adopt aid-to-education legislation. The Presidential campaign of 1964 had been fought on just such issues. And, if memory serves, on April 11, 1965, the new Congress having no more than just come into office, President Johnson had that bill on his desk and signed it, the Elementary and Secondary Education Act of 1965.

Now, to which children was that act directed? It was children with family incomes below the Federal poverty standard, a statistical standard developed in the Department of Health, Education, and Welfare which continues its use in various ways as it ought to do.

The 1960 census was the basis for the allocation at that time. The 1970 census became the basis for the next allocation. Now there is a 1980 census and we find that poverty has diminished, that the very States toward which these programs were directed—and there were many, many derided at great length in this body, I may say—they have had their success. The States that were poorest are less poor. There are relatively, and in many cases absolute, fewer children in poverty. And I come from the second largest State which, although its overall population dropped 3.7 percent in this last decade, showed an absolute increase of 98,000 children in poverty, some 19 percent.

Now, fair is fair. We are dealing not with States, not with school districts, not with counties, but with children. And if we are going to redistribute this money away from the children toward which it was originally directed, have we kept faith with this legislation? Have we kept faith with this commitment?

I would argue it is elementally the case that we have not done so. May I also say that in doing this, we do something dangerous: We reject the successes of our efforts.

It is not the case, as some wish to argue, that there has been no response to Federal education programs. There has been an emphatic response and it has been most conspicuous among the children who find themselves in the

poverty areas and categories. The educational achievement of children up to about the fourth and fifth grade in this Nation has gone up since this legislation was enacted. So there is something to show for it. The number of people living in poverty has gone down. The incidence has shifted. The distribution is not what it was. Yet the commitment ought to remain what it was.

This education legislation, the first of its kind, was directed to poor children. To redirect it now is to break a commitment this Nation made in the name of John F. Kennedy and Lyndon Johnson.

I was there to watch its birth and early progress. I am proud to have been a part of it. I would be ashamed to see this body break that commitment.

I see the Senator from New Jersey, whom I think shares my views in this matter, has risen. I yield.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, the amendment which is before us now is a so-called hold harmless provision offered by the Senator from Arkansas.

It is important that we be clear on the cost of the amendment and on who would actually be held harmless.

Mr. President, under this amendment, every county would be held harmless. The cost is over $100 million.

Mr. President, if we passed a simple hold harmless for the States, it would only cost $60 million. If we passed a 95-percent hold harmless for States, it would cost close to $25 million.

Mr. President, I am not unsympathetic to the interests of the Senator from Arkansas, but I think he has grossly overstepped what is possible for the Senate to support. This hold-harmless provision would deliver more dollars to many States than they would have received if the change in the formula had been enacted.

That brings us, Mr. President, to the question of whether there is a good rationale for the current title I formula. The current formula is based upon two pillars. The first is the use of the most recent census count of poor children in a State. It is true that there has been a shift in the proportion of poor children to many Northern and even some Southern States, such as Texas, since 1970. That movement in the poverty population has to be reflected in the Federal money that goes to educate the children of poor people. That is what the Senator from Connecticut meant when he said that the money follows the poor children.

Mr. President, the second pillar, which is equally important, and was hammered out under great debate and in periods of great compromise in the 1970's, is that the varying costs of educational services should be taken into consideration in determining a State's share of funding. The average per-pupil cost in a State must be taken into consideration.

Mr. President, in the existing formula, there is a so-called 80-120 cap, meaning that no State whose per-pupil costs are less than 80 percent of the national average would receive less than 80 percent and no State whose per-pupil costs are more than 120 percent of the national average would get more than 120 percent.

Mr. President, in my State of New Jersey the average per-pupil cost is 135 percent to the national average. We are brought down under the formula to 120 percent. In the State of the Senator from Arkansas, the average per-pupil cost is 67 percent of the national average. His State is raised 13 percent, while the State of the Senator from New Jersey is dropped 15 percent under present law. The effect of this compromise is to even out high spending and low spending States.

Mr. President, it is clearly important that the costs of educational services be taken into account. In some parts of the country it costs more to educate a child—more for wages, more for energy, more for a variety of factors, all of which are figured into per-pupil costs.

So, Mr. President, the formula must not just be a count of poor children. It must also take into account the effort that the State is making to educate its children, The formula must reflect the varying costs of educating those children. A hold harmless—or a formula change similar to that proposed by the Senator from Arkansas—weakens the current dual purposes of the program.

Mr. President, while I am not unsympathetic to the general direction of this amendment, I think it oversteps by a considerable margin what is possible for me to support, since it delivers more total education dollars to many States than would have flowed to them if the previous formula amendment had been adopted. While I cannot support the amendment offered by the Senator from Arkansas, I believe that we can come to a compromise on this issue. I urge my colleagues to join with me in working toward a compromise.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I know the purpose of every Member of this body would be to do the right thing, the thing that would bring the most results.

I am not an educator, I have never had that privilege, but I do know something about the problems that go with schools. I know something about the schoolrooms, inside the schoolrooms, teaching that is going on now, because I go into those schools. I go in during class hours and visit with the children and the teacher because I want to get the feel of the situation. I want to know the feel, the subject matter, the adequacies, in my opinion, at least of the teachers, the students, the administration, and all that goes with it.

Now to come in here and reduce the amount of money that is going to go to various States because of that artificial State line or because of some change in the situation that still leaves the need there is just downright gross error. We are making a great mistake when we try to do it.

I know that within the last few years my State of Mississippi paid the highest percent of the tax money they collected for education than any other State in the Nation. That does not mean they are any better than anyone else, but it means that they are trying, and they are making a show, and they are willing to apportion this money out where I think it probably belongs more than any other one place, and that is in the teaching and training of those children.

Recently, I think within the last 6 months, figures came out with reference to the quality—I do not know just how the educators gauged that —the quality of the work, the studentship and all that was turned out. According to their formulas, our State was among the very highest.

Somebody is doing a lot of hard work in putting what money they do have to a mighty good use. Why come along here and under this situation let it drop back? With the census that will go into effect soon, that amount will drop from $351 per child to $308. That is a $43 drop in this very critical time when headway is really being made.

I know, too, from my own personal knowledge, that it is up to us to get out there and stay behind the schools. We are already behind them. The Parent-Teacher Association and all kinds of organization are behind them. But we have to get the children in there and find where the talent is, where the aptitudes are, the capacity and the talent, I repeat, and then direct that teaching into those channels where the real payoff is. I think in that way we are doing a mighty good job.

I do not see how anyone could come and just, with all deference, promote the idea when prices are sky-high—promote the idea here that will cause these reductions.

Certainly, we can make up for it in some way with hard money, but it will be a great mistake now to take this step backward.

When I go into those classrooms, I call on them to explain the application of title I money. That is the first place I go. I find these encouraging facts that I have told.

They have not deceived me and they have not tried to crowd me or push me or anything, but they are expecting—we do not expect a whole lot, or everything that comes along. But those people are expecting and those children are expecting the protection, for now and later, in the progress we have made and the plans we are making for the future. This bill will just slap them in the face.

I do not object to anybody else having an increase. I am not envious of any other State. What I am trying to stop is the tendency to decrease the States.

No one has proven any fault at anyone's doorstep. No one said anything about any money being thrown away. I can guarantee that it is not being done in our State; I would know about it if it were.

What we are asking for is do not penalize us because of some change in statistics. We know that we are proven in spots and in the right places. I know those people well enough to know they are going to continue. I deal with all of them, come in daily contact, when I am home, with all kinds, regardless of color, condition, or anything else. I have their confidence. They talk to me. I know. I know what they are planning.

I plead with this body now, let the outcome of this debate and these amendments, take any kind of penalty here in the way of money. This is a money bill. Do not let us take anything away from any State. Let us keep the standard up.

We do not have a lot of money to spare, but we do not leave out many things. I do not see how we can come along now and penalize—and that is what it means—these States that would lose out under this formula.

I am pleased with the leadership of this body in this educational field. I have no complaints to make, but I have this plea to make: Let us get this thing adjusted.

I commend the Senator from Arkansas and the Senator from Georgia and all others who have worked on this problem, even if they did not have my position.

I yield the floor, Mr. President.

Mr. BUMPERS. Mr. President, did the Senator from New York wish to speak further?

Mr. MOYNIHAN. No; I thank the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I withdraw my amendment and send an amendment to the desk.

The amendment (No. 1397) was withdrawn.

AMENDMENT NO. 1398

(Purpose: To provide for an equitable modification in the grants which local educational agencies are eligible to receive under subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965)

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an amendment numbered 1398.

Mr. BUMPERS. I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

On page 71, between lines 22 and 23, insert the following:

ELEMENTARY AND SECONDARY EDUCATION

For an additional amount for subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965, $40,000,000 to be available for the payment of grants to local educational agencies located in a State in which the aggregate amount of grants determined for such agencies from amounts appropriated for fiscal year 1983 prior to the date of enactment of this Act is less than 95 per centum of the amount of the grants for that State from amounts appropriated for fiscal year 1982 by reason of the application of the 1980 census data in order to increase the amount for local educational agencies in each such State to the amount determined for that State for fiscal year 1982: *Provided*, That the amount of the increase in any grant which a local educational agency in any State shall be eligible to receive by reason of the application of this paragraph shall be determined on a pro rata basis.

It is the intention of the Congress that for each fiscal year ending prior to September 30, 1987, an additional amount will be appropriated, as necessary, for the payment of grants to local educational agencies in all States subject to the provisions of the previous paragraph in order to increase the amount for local educational agencies in each such State for each such fiscal year to the amount determined for that State for fiscal year 1982.

Mr. BUMPERS. Mr. President, this is an amendment I have discussed with the distinguished Senator from Vermont (Mr. STAFFORD), the Senator from Connecticut (Mr. WEICKER), and the Senator from New Jersey (Mr. BRADLEY). First, I thank them for agreeing to support this amendment.

I want everybody to know that the amendment provides a 95 percent hold-harmless protection at the State level, and the amendment appropriates an additional $40 million. It is not sufficient to redress a really critical problem in about 20 States including Arkansas. We have, as I said earlier, most of our poverty, most of our children below the poverty line, in certain sections of the State. In the school districts where they are located—this is true of Mississippi, and it is true in a lot of States—I can tell you that the cost of educating children where you have those deep pockets of poverty is very high. The school boards in our State have to know right now whether they are going to be able to keep any of their remedial reading teachers and other teachers that they use and hire with chapter I money, as we call it now. We are going to have to discharge a lot of teachers in Arkansas at a time when the education commission report to the President says that the Nation is at risk because of educational standards.

As I say, Mr. President, I have been around here long enough to take a half loaf when I cannot get a full loaf. But I think here we are, in a sense, shooting ourselves in the foot. Be that as it may, I thank the other Senators for their cooperation in helping me try to work this out. I hope the sponsors and the floor managers will accept the amendment.

Before getting to that, does the Senator from Georgia wish to speak?

Mr. MATTINGLY. Yes, Mr. President, I do.

I regret that we have reached this point in this discussion. What started out as a good-faith effort to provide an equitable method of disburing Federal tax dollars for education has turned into an auction. It reminds me of the TV program, "Let's Make a Deal."

We are hearing once again the old Government solution for the problem: Let us just throw more money at it and it will go away. What we ought to be talking about is fairness and equity in allocating the existing Federal dollars for education. What we end up talking about is increasing the already huge Federal deficit.

Now is not the time to spend more money. The economic recovery is very fragile. The last thing we need to have is an already bankrupt Federal Government going further into debt.

Mr. President, I can understand and appreciate the reasoning behind this recommendation for the increased funding. If we had the money sitting in the Treasury, it would be something we could discuss. But the money is not there.

Mr. President, the question before us is very simple. I hope my colleagues listen to this: Is the current formula for allocating these funds among the States fair? The answer is an emphatic no. Whether we are talking about $5 or $5 billion, the formula now used to decide who gets how much is just not fair. That is what the issue is.

Is it fair that wealthier States get more of these chapter I funds than the poorer States? Absolutely not. Considering the goals of chapter I, this is the reverse, the absolute cockeyed reverse of what should be true.

I thank the Chair.

Mr. MOYNIHAN. Mr. President, I believe we have reached the point of

agreement. It is my wish to thank all the parties to it and to say that it is evidence again of the capacity of this body, as the distinguished Senator from Mississippi has so often said, to reason together here. I think we have done so. I cannot forgo, however, a brief notice that there are many programs which were adopted in the 1960's that are alive and well and of great importance to our people. Without wishing to say any more, I just wish to express my satisfaction in this case, particularly my appreciation to all the participants in the debate.

The Senators from Arkansas and Georgia have made their case with great eloquence and, in the best terminology of the cotton country, if they have to go home with a half loaf, that is a good getting for the day and not the worst thing to get.

Mr. BUMPERS. Mr. President, I modify my amendment to read, after "1965" on line 5, "such sums as shall be necessary but not to exceed $40 million."

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 71, between lines 22 and 23, insert the following:

ELEMENTARY AND SECONDARY EDUCATION

For an additional amount for subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965, such sums as may be necessary, but not to exceed $40 million to be available for the payment of grants to local educational agencies located in a State in which the aggregate amount of grants determined for such agencies from amounts appropriated for fiscal year 1983 prior to the date of enactment of this Act is less than 95% of the amount of the grants for that State from amounts appropriated for fiscal year 1982 by reason of the application of the 1980 Census data in order to increase the amount for local educational agencies in each such State to the amount determined for that State for fiscal year 1982: *Provided*, That the amount of the increase in any grant which a local educational agency in any State shall be eligible to receive by reason of the application of this paragraph shall be determined on a pro rata basis.

It is the intention of the Congress that for each fiscal year ending prior to September 30, 1987, an additional amount will be appropriated, as necessary, for the payment of grants to local educational agencies in all States subject to the provisions of the previous paragraph in order to increase the amount for local educational agencies in each such State for each such fiscal year to the amount determined for that State for fiscal year 1982.

Mr. BUMPERS. Mr. President, I ask the adoption of the amendment.

Mr. MATTINGLY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. MOYNIHAN. Mr. President, the rollcall has not begun. I wonder if the Senator from Georgia is aware that the managers——

The PRESIDING OFFICER. The rollcall has not been ordered.

Mr. MATTINGLY. I request a rollcall vote, Mr. President.

The PRESIDING OFFICER. The question is pending. Is there a sufficent second?

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. As of this moment, there is not a sufficient second.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. As manager of the bill at this juncture, I have a slight question as to the language proposed, and I would like to discuss that a minute with the Senator from Arkansas.

I yield to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. I think it is important for the legislative RECORD to state that whatever happens with this hold-harmless amendment, all of the allocations under title I due to go out on July 1 should in no way be delayed even by 1 day. The allocations for the eligible States and school districts across this country should not be delayed if this provision is passed. It is conceivable that it may take the Department of Education a few weeks in order to get the additional money out, but it would be, I think, the legislative intent of all the participants in this debate that passsage of this amendment would in no way delay the money going out to the rest of the eligible States and counties around the country.

Mr. STAFFORD. Mr. President, I would like to reiterate what the gentleman from New Jersey (Mr. BRADLEY) just said.

The U.S. Department of Education is to go ahead with its ordinary July 1 distribution of chapter 1 funds and not delay this distribution as a result of this amendment.

These additional hold-harmless funds, if they become law, should be distributed at a later date and the States receiving them should redistribute them on a pro rata basis.

Mr. MATTINGLY addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. MATTINGLY. 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.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), and the Senator from Colorado (Mr. HART) are necessarily absent.

The PRESIDING OFFICER (Mr. GORTON). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 63, nays 34, as follows:

[Rollcall Vote No. 148 Leg.]

YEAS—63

Andrews	Eagleton	Melcher
Baucus	Exon	Metzenbaum
Bentsen	Ford	Mitchell
Biden	Garn	Murkowski
Bingaman	Grassley	Packwood
Boren	Hatch	Pell
Boschwitz	Hatfield	Pressler
Bradley	Hawkins	Pryor
Bumpers	Heflin	Randolph
Burdick	Heinz	Riegle
Byrd	Hollings	Roth
Chafee	Huddleston	Sarbanes
Chiles	Inouye	Sasser
Cochran	Jepsen	Simpson
Cohen	Johnston	Specter
D'Amato	Kennedy	Stafford
DeConcini	Lautenberg	Stennis
Denton	Leahy	Stevens
Dodd	Levin	Thurmond
Domenici	Long	Tsongas
Durenberger	Mathias	Weicker

NAYS—34

Abdnor	Jackson	Proxmire
Armstrong	Kassebaum	Quayle
Baker	Kasten	Rudman
Danforth	Laxalt	Symms
Dixon	Lugar	Tower
Dole	Matsunaga	Trible
East	Mattingly	Wallop
Goldwater	McClure	Warner
Gorton	Moynihan	Wilson
Hecht	Nickles	Zorinsky
Helms	Nunn	
Humphrey	Percy	

NOT VOTING—3

Cranston	Glenn	Hart

So Mr. BUMPERS' amendment (No. 1398), as modified, was agreed to.

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

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, I yield to the Senator from Hawaii (Mr. INOUYE).

AMENDMENT NO. 1399

(Purpose: To assure that certain funds relating to the Commission on Wartime Relocation and Internment of Civilians shall be available until September 30, 1983)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Hawaii (Mr. INOUYE) proposes an amendment numbered 1399.

Mr. INOUYE. 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 10, after line 24, insert the following: Commission on Wartime Relocation and Internment of Civilians

SALARIES AND EXPENSES

Funds appropriated under the heading of Commission on Wartime Relocation and Internment of Civilians in Public Law 97-377 (96 Stat. 1877) shall remain available until September 30, 1983.

Mr. INOUYE. Mr. President, pursuant to Public Law 97-152, the Commission was given until December 31, 1982, to submit its report to Congress. Due to administrative delays and the considerable volume of material which the Commission had to review, as well as the addition of several new subject areas such as economic losses and the psychological impacts of internment, the Commission requested an additional appropriation in fiscal year 1983 and a time extension through June of this year.

Subsequently the sum of $300,000 was appropriated in the continuing resolution to enable the Commission to complete its work in a thorough and comprehensive manner. Language in the continuing resolution states that these funds are "available only until June 30, 1983." Although the Commission's work will be complete prior to June 30, this language appears to preclude them from conducting a 3-month wind-down period with the unexpended funds. For this reason, I would like to request your assistance in adding language to the supplemental appropriations bill to clarify this matter. No further appropriation is necessary.

Mr. President, this amendment has been cleared by all parties involved. It has no budgetary impact. It does not add a dollar. All it does is give the Commission an opportunity to wind down its activities.

Mr. WEICKER. Mr. President, this amendment has been cleared on this side and I imagine also on the other side.

I urge its adoption.

Mr. MATSUNAGA. Mr. President, I am a cosponsor of this amendment.

Mr. President, the continuing resolution passed by Congress in December 1982, appropriated an additional $300,000 for the Commission on Wartime Relocation and Internment of Civilians. Under the provisions of the continuing resolution, the Commission had authority to use these funds until June 30, 1983.

Senator INOUYE's amendment, of which I am a cosponsor, to the supplemental appropriations bill would extend the Commission's authority to use this money until September 30, 1983. The amendment does not appropriate any additional funds for the Commission, but merely gives this body a 90-day period to close its office, testify before Congress if necessary, and handle any other matters pertinent to an orderly phaseout of its existence.

The law which established this body provided for the Commission to have such a 90-day "wind down" period and the Inouye-Matsunaga amendment merely brings the appropriation into line with this provision. I urge the adoption of the amendment.

Mr. KENNEDY. Mr. President, I move the amendment.

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

The amendment (No. 1399) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. WEICKER. Mr. President, I would appreciate it if my colleagues would just give a little attention to the floor because I think we can do away with three or four amendments and I think get very close, with the exception of a major matter which is yet to be resolved, to resolving various issues on the floor. If we could go through this, I would greatly appreciate it if we would have the Senate in order.

I know the Senator from Pennsylvania and the Senator from Minnesota both have amendment which I think will be agreed to in fairly short order, and the same holds true for the Senator from Massachusetts.

What I wish to do at this time is, assuming no opposition, we can probably dispense with the amendment of the Senator from Pennsylvania in several minutes.

Mr. HEINZ. I am hopeful that we can.

Mr. WEICKER. If these Senators will stay on the floor I think we can do all of this in only 5 minues. That will help the scenario.

Mr. President, I ask unanimous consent that the committee amendment be temporarily set aside to permit an amendment by the Senator from Pennsylvania.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered. The amendment is temporarily set aside.

AMENDMENT NO. 1400

(Purpose: To suspend periodic reviews of disability beneficiaries having mental impairments pending regulatory reform of the disability determination process)

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

The PRESIDING OFFICER. The clerk will report.

Mr. STENNIS. Mr. President, if we do not have quiet we just cannot transact any business.

The PRESIDING OFFICER. The Senate will be in order.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) for himself proposes an amendment numbered 1400.

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

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

The amendment is as follows:

At the end of the bill add the following new title:

TITLE V—SOCIAL SECURITY DISABILITY PROVISIONS REVISION OF REGULATORY CRITERIA RELATING TO MENTAL IMPAIRMENTS

SEC. 501. (a) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall revise the criteria embodied under the category "Mental Disorders" in the "Listing of Impairments" in effect on the date of the enactment of this Act under appendix 1 to subpart P of part 404 of title 20 of the Code of Federal Regulations. The Secretary shall also revise the methods and procedures for assessing the residual functional capacity of individuals having mental impairments. The revised listings and residual functional capacity assessments shall individually and together be designed to realistically evaluate the ability of a mentally impaired individual to engage in substantial gainful activity in a competitive workplace environment. The revised listings and assessments required by this subsection shall be completed within 6 months after the date of the enactment of this Act.

(b)(1) The Secretary shall appoint a panel of outside experts to make recommendations with respect to the revisions to be made in accordance with subsection (a), consistent with the requirements of titles II and XVI of the Social Security Act for individualized determinations of disability.

(2) The panel shall consist of individuals who are experts in the field of mental health, and shall include at least one psychiatrist, one rehabilitation psychologist, one medical social worker, and one vocational expert.

(3) Members of the panel shall be appointed without regard to the requirements of title 5, United States Code, and each member of the panel not otherwise in the employ of the United States Government shall receive the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which such member is actually engaged in the performance of the duties of the panel. Each member of the panel shall be allowed travel expenses in the same manner as an individual employed intermittently by the Federal Government under section 5703 of title 5, United States Code.

(c)(1) Until such time as revised criteria have been established by final regulation in accordance with subsection (a), no continuing eligibility reviews shall be carried out under title II or XVI of the Social Security Act with respect to any individual previously determined to be under a disability by reason of a mental impairment.

(2) Paragraph (1) shall not apply in any case where the Secretary determines that fraud was involved in the prior determination, or where an individual is engaged in substantial gainful activity.

(d)(1) Any disability determination or reconsideration or appeal of such determination, and any reconsideration or appeal of a continuing eligibility review, made under title II or title XVI of the Social Security Act after the date of the enactment of this Act and prior to the date on which revised criteria are established by final regulation in accordance with subsection (a), shall be redetermined by the Secretary as soon as feasible after the date on which such criteria are so established, applying such revised criteria.

(2) In the case of a redetermination under paragraph (1) of a prior action which found that an individual was not under a disability, if such individual is found on redetermination to be under a disability, such redetermination shall be applied as though it had been made at the time of such prior action.

(3) Any mentally impaired individual who was found to be not disabled pursuant to an initial disability determination or continuing eligibility review between March 1, 1981 and the date of the enactment of this Act, and who reapplies for benefits under title II of the Social Security Act, shall, only for purposes of determining whether the special insured status for disability is met, be deemed to have reapplied as of the time of the prior determination or continuing eligibility review. Reapplications under this paragraph must be submitted within one year after the date of the enactment of this Act.

REQUIREMENT FOR EVALUATION BY PSYCHIATRIST OR PSYCHOLOGIST

SEC. 502. (a) Section 223(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(7) In any case in which an individual alleges to be under a disability by reason of a severe mental impairment (as defined by the Secretary), the determination of whether such individual is under a disability shall be made only after the Secretary has demonstrated that a qualified psychiatrist or psychologist has completed the medical portion of the sequential evaluation and residual functional capacity assessment.".

(b) Section 1614(a)(3) of such Act is amended by adding at the end thereof the following new subparagraph:

"(G) In any case in which an individual alleges to be under a disability by reason of a severe mental impairment (as defined by the Secretary), the determination of whether such individual is under a disability shall be made only after the Secretary has demonstrated that a qualified psychiatrist or psychologist has completed the medical portion of the sequential evaluation and residual functional capacity assessment.".

(c) The amendments made by this section shall apply with respect to applications filed for benefits under title II or XVI of the Social Security Act on or after the date of the enactment of this Act.

Mr. HEINZ. Mr. President, I thank the Senator from Connecticut for setting aside the committee amendment.

This amendment is, I think, well known to most Senators.

On June 1, I informed my colleagues that, when the Senate takes up the repeal of withholding, I intended to offer an amendment relating to social security reviews of the mentally disabled. This amendment, which is basically the same as S. 1144, sponsored by myself and 43 other Senators, would require that the Social Security Administration revise its regulations for evaluating mental disabilities, after receiving the recommendations of a panel of outside mental health experts appointed by the Secretary.

Six days later, on June 7, HHS Secretary Margaret Heckler announced a series of disability initiatives which include, among other things, a moratorium on the reviews of two-thrids of the mentally disabled—those suffering from psychotic disorders. I have let the Secretary know, in a letter which I ask be made part of the RECORD, that while this moratorium is helpful, I can find no fair or scientific rationale for excluding beneficiaries with nonpsychotic disabilities from the moratorium. In one breath, the Secretary admits that the standards are fatally flawed and, for that reason, exempts the psychotic patients from a disability review temporarily; but then the Secretary is willing to continue applying basically the same flawed standards to the nonpsychotic disabilities—standards under which someone is found not to be disabled because he or she wears a clean shirt or blouse, feeds a pet, boils an egg, or bangs a few keys on the piano. I appended to my letter to Secretary Heckler a letter I received from a physician from St. Vincent's Hospital, in Harrison, N.Y., which comments, at length, on the basic illegitimacy of excluding from the moratorium patients with severe, nonpsychotic disorders. After some very detailed reasoning, Dr. Braun concludes—and I quote: "One could go on and on with examples to demonstrate that a diagnostic or psychotic, nonpsychotic method of exempting patients from review will only continue the present injustices and will not accomplish the desired goal."

To illustrate some of the injustices, I am inserting in the record five case studies that the GAO reviewed in preparing its testimony for the Aging Committee. Four of these five cases, all of which involve the so-called nonpsychotic disabilities, are erroneous terminations, in the opinion of the GAO. One of the five—example No. 4—had insufficient evidence in the file on which to base a termination.

SELECTED CASES WHICH MIGHT BE CLASSIFIED AS FUNCTIONAL NONPSYCHOTIC DISORDERS RATHER THAN PSYCHOTIC ILLNESSES—THESE CASES HAVE BEEN TERMINATED BY SSA WITHIN THE LAST 2 YEARS

1. Woman aged 47 years was diagnosed as suffering from a severe anxiety state. The record also stated that she had a depressive neurosis with anxiety and high blood pressure. She also has somatic illnesses. She has had three mini-strokes, severe headaches, peptic ulcers and bowel irritability. She worked from 1967-75 and has had benefits since that time. She has been treated for 2 years at a psychiatric clinic and is on Librium. She is dependent on her husband, does not go out without him, can't stand people and her husband and daughter look after the house when she is unable to. She has been turned down by vocational rehabilitation and staff they were unable to name any jobs she could do. She was seen as depressed, tense, constricted, unable to relate to others, but memory, judgement and orientation were intact.

2. A 56-year-old registered nurse was diagnosed as depressed with paranoid features, complicated by alcoholism and possibly early Alzheimer's disease. She was institutionalized in 1967, 1970, 1979, and July 1982. The Claimant worked as a registered nurse for 29 years until 1977. She was allowed disability in April 1978. A CE physician in 1978 felt the disability was sufficient not to establish a medical diary date. In 1980 the claimant was placed in Goodwill Industries as a nurse's aide. She had a breakdown in October 1981 and has been living in a nursing home. Though active and social and offering a normal appearance, the claimant functions under supervision with constant reminders. The nursing home is her representative payee. The claimant needs help dressing and taking medicine. She needs to be reminded to eat. She has a hobby and goes to yard sales with encouragement. Her treating physician and nursing home personnel say she is deteriorating and cannot function except in a structured supervised environment. When the claimant lived alone, she neglected her home, became depressed, and did not eat and did not keep herself clean.

Disability benefits were terminated in October 1982 on the basis that she is oriented in 3 spheres, has a satisfactory memory, has good contact with reality, is neat and clean in appearance, and functions adequately in daily activities.

It is difficult to judge which depressions will be classified as psychotic and which neurotic.

3. A 29 year old woman was diagnosed as having a Dysthymic Disorder. She has been hospitalized 4 times in 4 years for suicidal attempts. She is depressed, overweight, has no friends, she can't get along with others nor hold a job. She is in outpatient treatment and is on antidepressants and tranquilizers. However, she can dress herself, manage her money and go out by herself. The Consultant Psychiatrist considered her suicidal and homicidal.

4. Male aged 24 diagnosed as mentally retarded, IQ 66 with an organic brain syndrome. He has a long history of poor impulse control and poor interpersonal relationships. He has nightmares, recurrent headaches, has difficulty sleeping. He is irritable, restless and walks all day. He has auditory hallucinations. His recent memory is impaired. He had had 2 head injuries following accidents. His mother is his representative payee. He can understand simple instructions and can dress and feed himself. However, he does not have friends or relate to others outside the family. His disability was denied on the grounds that the behavioral difficulties were part of the mental retardation. No adequate neurological examinations appear to have been taken.

5. Male aged 25 years. Schizophrenic reaction—paranoid type. Has had 9 admissions to the VA between 1974-79. He has done 2 years of unskilled work in his life. He was discharged after 3 months from the VA. He lives with his father and is on medication. He is seen as untidy, manipulative, verbally abusive, with no insight or judgement. He

cannot manage money. The VA considered him to be demanding, dependent, violent, suicidal, self-neglecting. He would not stay in the VA Hospital.

It is not clear whether this individual would be classified as schizophrenic or as a paranoid personality. There are frequent diagnostic problems with these borderline individuals.

In short, this HHS policy distinction between psychotic and nonpsychotic disorders does not seem appropriate—or fair—from a medical standpoint. This group left out of the Secretary's moratorium is being terminated at a staggering 62-percent rate, many—if not most of them—erroneously. In addition, the Secretary's approach also leaves out of the moratorium those who are the most prone to suicide, because of their severe depression. And the Secretary's action also may have an adverse impact on women. Although we do not have hard numbers on this, we know, in general, that women suffer more frequently than men from the anxiety disorders and the nonpsychotic depression that falls in the categories of reviews not halted by the Secretary.

Further, the Secretary's June 7 statement is not at all clear in defining how far the administration intends to go in revising the criteria for judging mental disabilities. Two sets of criteria are really involved: The first is the so-called medical listings, which is a list of medical symptoms and findings. If the beneficiary's condition is as severe as the symptoms on that list of impairments, then the individual is found to be disabled. A second set of criteria is the so-called residual functional capacity. This is for people with impairments not as severe as those in the medical listing, although still considered to be severely impaired. The law and regulations require that SSA assess how much functional capacity that individual has, even though his impairment does not meet the standard contained in the listing. Since SSA data indicate that only 28 percent of decisions are made because the impairment meets or equals the listings, the application of this second set of criteria on residual functional capacity is as important, if not more important, than the medical listings themselves.

Secretary Heckler is apparently willing to revise the medical listings for judging psychotic disorders, but there is still no indication that the Department is willing to revise the second set of criteria, residual functional capacity, for evaluating pyschotic disorders which do not meet the listing. But for those suffering from nonpsychotic disorders, HHS is apparently not willing to revise either the medical listings or the residual functional capacity assessment. My amendment would require that the Secretary appoint a panel of outside experts to consider both the medical listings and the residual functional capacity assessment for all mental impairments—not just the psychotic.

The way in which the Secretary proposes to make changes in the mental disabilities standards is also very different from that proposed in my amendment. SSA apparently wants to set up informal work groups with "compassionate outside personnel"—as they are called in the press document—to help SSA bring its antiquated standards up to date. Well, the groups who should be participating in the process, like the National Mental Health Association, the American Psychiatric Association, and various others, have all written to Secretary Heckler expressing grave misgivings about SSA's motives for wanting these informal groups, as opposed to a panel of experts working out in the open for the public to view. Other administration documents indicate SSA would apparently prefer informal groups as being easier to manipulate than a panel of recognized experts.

Mr. President, the continuing disability reviews need a complete reform; and it would be a tragedy if the administration were to go through the exercise and end up with something that falls short of a remedy. A panel of outside experts would help the Secretary achieve a genuine remedy without tying their hands.

Finally, my amendment requires that a qualified psychiatrist or psychologist participate in the disability determination of people with severe mental disabilities. The GAO, in testimony before the Aging Committee that I entered in the RECORD on April 26, found that one of the major deficiencies in the reviews of the mentally disabled is that decisions are routinely made by individuals with little or no training in psychiatry or psychology.

Mr. President, for all these reasons, I am offering my bill as an amendment.

I would emphasize, again, that this amendment deals with the continuing disability review process, but only for those who are mentally disabled. This is a very small group of people, about 11 percent of all disabled workers, who are particularly vulnerable and defenseless because of the very disability that is under review. It is an amendment that Senator WEICKER, Senator SARBANES, Senator CRANSTON, Senator MOYNIHAN, Senator BOSCHWITZ, Senator JEPSEN, Senator WARNER, Senator COHEN, and Senator GRASSLEY also join me in cosponsoring, and I ask unanimous consent that they be added as cosponsors.

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

Mr. HEINZ. Mr. President, let me make it clear that the moratorium on reviews of about two-thirds of the mentally disabled, which Secretary Heckler announced on June 7, was a step I personally welcomed. I am glad it was taken and I salute the Secretary for doing so. It is an improvement.

But, in my judgment, it simply does not go far enough because it leaves out most of those people who are mentally retarded; it leaves out those who are mentally disabled but who are not psychotic, such as people who are suicidally depressed, or people who are inclined toward homicide but for one reason or another are not psychotic. And the purpose of this amendment is to give the Department of Health and Human Services 6 months to come up with new medical listings and a new system of evaluating residual functional capacity, which is, in plain English, the question of whether these people can or cannot work, considering their age, education, and work experience.

Until those new regulations are issued in final form, there will be a moratorium on all reviews of social security and SSI beneficiaries, who were previously awarded benefits because of a mental disability. If the new, final regulations are issued before the 6-month deadline, the moratorium will end at that time. But if HHS takes longer than 6 months to revise, in final form, the regulations specified in this amendment, the moratorium will remain in force until such time as HHS has issued the new regulations.

The problem today is that the Social Security Administration is disallowing benefits to people who clearly cannot work because they are mentally disabled or mentally retarded. The purpose of this Senator's amendment is to put an end to that injustice.

I am advised the cost of the amendment, were the moratorium to be in effect for the full 6 months, is less than $3 million; and it would be my hope that my colleagues would support the amendment.

Mr. WEICKER. Mr. President, I urge adoption of this amendment, to put a moratorium on review of disability cases for mentally impaired persons, until new regulations recommended by GAO and others can be implemented.

Too often in the past mentally impaired persons have been thrown off the disability rolls, even though they are not capable of getting and holding a job. The amendment is needed and I support its adoption.

The PRESIDING OFFICER. The Senator from Mississippi.

The Senator for Kansas.

Mr. DOLE. Mr. President, I will just take 1 minute. I discussed this amendment—in fact, there are a number of Senators on both sides of the aisle who have been working in this general area for the past year: Senator HEINZ, obviously, Senator DURENBERGER, Senator COHEN, Senator LEVIN, Senator METZENBAUM, Senator RIEGLE, a number of Senators, trying to accom-

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plish, I think, some legitimate objectives.

First, I would commend the administration for the announcement they made just last week. I mean this is not an anti-administration amendment. I think it is the feeling of the Senator from Pennsylvania that the action, although laudable, did not go far enough.

This is a very minor amendment. The Senator from Pennsylvania has agreed, as I understand it, to put a 6-month limitation on the amendment.

We are told by the Congressional Budget Office that the cost is under $5 million, and that would be zero in the process of the way they round down or up.

So I think it is a good amendment. I know the distinguished Senator from Louisiana (Mr. LONG) may or may not have reviewed the amendment. But what happened in 1980 was there was a law passed by Congress—I think most Members of Congress voted for it—and we started the review in 1981 based on the 1980 law.

There has been some concern that HHS has been moving too quickly, and this is an effort by the distinguished Senator from Pennsylvania to slow down the process; it would temporarily suspend the review of eligibility of the mentally impaired on disability insurance rolls, and it would seem to me that if the Department now acts as the Senator from Pennsylvania hopes they will act, they can do this next week, next month, 2 months from now.

So I think the amendment is satisfactory.

Mr. HEINZ. Mr. President, I want to thank my friend from Kansas, the chairman of our committee, for his kind words on the amendment. I believe the amendment does do what he has said it does. It will cost, hopefully, even less than the $3 million I indicated earlier.

Mr. President, I ask unanimous consent that Senators LEVIN and DURENBERGER be added as cosponsors.

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

● Mr. LEVIN. Mr. President, I support the amendment offered by the Senator from Pennsylvania. As ranking minority member of the Subcommittee on Oversight of Government Management, of which Senator COHEN is the chairman, I have been active in trying to correct tragic flaws in the social security disability program for the last 2 years.

At the time Congress passed legislation requiring a review at least every 3 years of those persons in the disability program who are not deemed to be permanently disabled, it was estimated by the Social Security Administration that approximately 20 percent of the persons in the program were actually ineligible and should be terminated. That was a pretty large admission of improper management of the program by SSA, and I think it surprised many Members of Congress. However, current figures on the percentage of persons being terminated from the disability program at the State level show 45 percent of the persons being reviewed are being terminated. That is unbelievable. That figure alone tells me that something is very wrong with the current continuing disability review process, particularly, because for those who avail themselves of the appeals process, some 60 percent are being reinstated. That is an enormous waste of administrative resources as well as an unfortunate imposition of anxiety and uncertainty for the persons who are terminated and subsequently reinstated.

The Oversight Subcommittee recently held a hearing on the role of the administrative law judge in the disability review process, and I became convinced through that testimony that SSA has been working very hard to get the administrative law judges to lower allowance rates, so that fewer people who appeal to an ALJ will stand the chance of being reinstated. Most significantly, this pressure by SSA to lower the allowance rate is—by SSA's own admission—not based on any evidence that the decisions by the State disability examiners to terminate are correct, and without that piece of information, reducing the reversal rates of ALJ's is unjustified. At that hearing, I had the following exchange with Louis Hays, Acting Deputy to the Deputy Commissioner for Programs and Policy and Associate Commissioner for Hearings and Appeals:

Senator LEVIN. Do you agree that the trend to more denials is a favorable trend?

Mr. HAYS. It could be a favorable trend.

Senator LEVIN. Could it be an unfavorable trend?

Mr. HAYS. It certainly could indicate that more cases are being properly handled at lower levels of adjudication.

Senator LEVIN. Could it be an unfavorable trend?

Mr. HAYS. I suppose it could be.

Senator LEVIN. We don't know whether it's favorable or unfavorable. It may or may not be in and of itself. We can't determine that it's a favorable trend; would you agree with that?

Mr. HAYS. I think it depends on the quality and accuracy of those decisions. If those decisions that go into an increasing or decreasing allowance rate are accurate, correct decisions, then it's a good trend. If the decisions are not accurate and of good quality, then it's a bad trend.

Senator LEVIN. So in and of itself the trend to lower reversal rates, which means more denials by ALJ's is not a favorable trend; you'd have to look behind it.

Mr. HAYS. Looking solely at an allowance rate tells you very little.

Recently, Secretary Heckler announced six initiatives—those are her words, I believe—to improve the disability program and make it more humane. Little in that announcement was new, and the really important issues about changing the review process itself were not addressed, for example—the fact that there should be a showing of medical improvement before someone can be terminated, the need to pay benefits through the administrative law judge decision, the need to have uniform standards for determining disability made subject to public notice and comment, and the need to reverse SSA's longstanding policy of not complying with decisions rendered by circuit courts of appeal with which SSA disagrees. Senator COHEN and I introduced a bill on February 15 of this year which addresses these important, substantive issues. We now have some 24 cosponsors, and anticipate Finance Committee consideration later this year.

Mr. President, I think Congress was right when it passed the 1980 amendments requiring periodic review of persons in the disability program. We do not want people who are not disabled to receive benefits, and following good management practices, we should make sure that such people do not get into the program in the first place, and if they get there, that they are promptly removed. However, with equal passion, we want those persons who are severely disabled, and are eligible for benefits, to receive them. In concentrating on the former, the Social Security Administration has ignored the equal importance of the later.

And, because the manner in which these reviews are being conducted is so offensive to common standards of due process and fair play, I think it is appropriate for Congress to temporarily halt for those persons most seriously affected, what everybody has agreed conceptually is, otherwise, a good management practice. Senator HEINZ' amendment is directed only at those persons receiving benefits who are mentally impaired, because the record shows that these persons are more likely to be terminated, are being reviewed at a faster rate than the physically impaired, are less able to manage the demands of the review process, and are being judged by standards that haven't been updated for years. I think the suspension of the reviews of these persons until the necessary standards are reviewed and updated is humane public policy, and I am pleased to support Senator HEINZ' amendment today.●

● Mr. COHEN. Mr. President, I am pleased to be a cosponsor of this amendment which would impose a temporary moratorium on further reviews of mentally impaired individuals receiving social security disability benefits.

In my judgment, suspension of the Social Security Administration's re-

views of the mentally disabled is warranted because of the overwhelming evidence indicating that benefits have been wrongly terminated for thousands of severely disabled people. Hearings held by the Aging Committee revealed that the criteria for evaluating the mentally disabled are woefully inadequate and that, in many cases, the decision to terminate benefits is made by personnel with little or no training in psychiatry or psychology. In light of these fundamental deficiencies, I believe that suspending the case reviews is appropriate until the regulations governing the disability determinations—known as the medical listings—are revised to permit an accurate assessment of the individual's ability to work.

Although I strongly support Senator HEINZ' amendment, I want to emphasize my belief that comprehensive legislation reforming the entire social security disability review process is still urgently needed. Much more remains to be done to insure that the reviews are fair to disabled workers, whether they suffer from mental impairments or grave physical ailments.

In this regard, I am pleased to note that Senator HEINZ has cosponsored the comprehensive bill that Senator LEVIN and I introduced in February. It is my hope that Congress will act quickly, not only on the moratorium legislation but also on the long-term bill, so that hardships and injustice inflicted on the severely disabled will finally be eliminated. I commend the Senator from Pennsylvania for his initiative and his contributions to this goal.●

Mr. PRYOR. Mr. President, I rise in strong support of the amendment by my distinguished colleagues from Pennsylvania, the chairman of the Special Committee on Aging, which would insure that individuals receiving social security and supplemental security income by reason of mental disability would receive equitable treatment from the Social Security Administration.

Since implementation of the 1980 amendments to the Social Security Act, which required triannual reviews of the nonpermanently disabled individuals, the disability program has been fraught with controversy. There is not one Member of Congress whose office has not been inundated with calls and letters from constituents who have been terminated from the disability program. Despite GAO estimates that approximately 20 percent of those on the disability rolls were improperly receiving benefits—estimates which precipitated enactment of the triannual reviews—almost half of the disability beneficiaries are being removed. Since the Social Security Administration began these reviews, over 300,000 beneficiaries have been cut off from their benefits.

Mr. President, there is not a Member of Congress who condones the receipt of benefits by those who are undeserving. But in case after documented case it has been discovered that many, many deserving individuals are being terminated only to gain reinstatement after a lengthy and painful appeals process. In some of the more extreme—and not so rare—cases, beneficiaries who have appealed are reinstated only after they have died from the disability which the Social Security Administration deemed not serious enough for the continuation of benefits.

As alarming as some of these reports are, a combined investigation of the GAO and the staff of the Special Committee on Aging has revealed far more appalling facts about reviews of the mentally impaired disabled.

During recent hearings before the committee, we learned that, although about 11 percent of those on the disability rolls have mental impairments, between 24 and 28 percent of the reviews and terminations are of the mentally impaired. And out of 1,400 appeals in such cases, 9 out of 10 terminations were overturned by administrative law judges. In a GAO survey of 40 denial and termination cases reviewed by a staff clinical psychologist, 27 individuals were judged incapable of daily functioning without support and could not work in stressful environments. In 13 other cases she judged that additional medical information was needed. The following are the major weaknesses GAO documented for the Special Committee on Aging regarding disability reviews of the mentally impaired:

First, an overly restrictive interpretation of the criteria to meet SSA's medical listings, resulting principally from narrow assessments of individuals' daily activities;

Second, inadequate development and consideration of a person's residual functional capacity and vocational characteristics;

Third, inadequate development and use of existing medical evidence, resulting in an over-reliance and misuse of consultative examinations; and

Fourth, insufficient psychiatric resources in most state DDS's (Disability Determination Services).

While there have been successful lawsuits filed against the Social Security Administration regarding the mentally impaired, and more are pending, the wheels of justice are grinding far too slowly for the many mentally disabled who are being unfairly stripped of their benefits. It is time for the Congress to act to counter these grave injustices.

Secretary of HHS Margaret Heckler last week announced some new departmental initiatives for reform of the disability program. Among these was one which was directed specifically at the mentally impaired: That reviews of two-thirds of the mentally impaired scheduled for review—those suffering from psychotic disorders—would not be reviewed until SSA's standards have been revised. This action is a subtle admission by the administration that faulty standards have been used, which have resulted in much suffering. Merely placing a moratorium on review of the most severe cases will not fully address the problem we are facing.

In view of SSA's deplorable track record, I believe it is of vital importance that we go further in our efforts to reform this most important program.

While I am hopeful that, in the coming months, the Congress will see fit to further address the problems of the disability program, Senator HEINZ' proposal is a first step toward this aim. He is to be commended for his painstaking and thorough efforts to document some very, very serious flaws in the system. I urge my colleagues to follow his lead and approve the changes he is requesting today.

Specifically, his proposal would: Require SSA to revise applicable criteria for mental disability classification after consultation with an appointed, outside advisory council, the members of which would be chosen by the Secretary and shall have expertise in the field of mental impairments; prohibit SSA from reviewing any new mental disability cases until these criteria are set in place; require SSA to process all new applications and appeals of prior decisions, with the stipulation that these cases be earmarked for redetermination after new regulations are in place; and make SSA responsible for assuring that the medical portion of the evaluation for mental impairment be conducted by a qualified psychiatrist or psychologist.

In view of the administration's admission that there is a problem with determinations of mental impairment, I believe Senator HEINZ' proposal a commonsense approach to dealing with a very important part of the entire disability issue.

Mr. DOMENICI. Mr. President, I rise in support of the amendment offered by my colleague, the senior Senator from Pennsylvania. This amendment would require reform in the adjudication of mental disabilities by the Social Security Administration and would impose a moratorium on disability reviews until new, more fair and humane, standards are implemented.

The controversy in the social security disability program is not new. Congress passed legislation in 1980 requiring the Social Security Administration to review all nonpermanent disabilities once every 3 years. We were concerned about GAO reports that as many as 20 percent of the disability recipients did

not meet the eligibility criteria, and that incorrect payments could exceed $2 to $4 billion per year.

The administration shared our concern and worked hard to implement the review schedule. It became clear, however, that rushing this process led to hardship for many disability recipients. So, in December 1982, Congress passed legislation to protect all disability recipients from an unfair or abrupt termination of benefits. I supported that provision.

Since December of last year, we have become aware of another problem in the review process. It affects only a small minority of disabled workers, those who are mentally impaired. These individuals are a particularly vulnerable and defenseless group and, as such, deserve all of the protections we can provide.

Hearings before the Senate Aging Committee, of which I am a member, provide substantial evidence that the current rules and procedures for judging mental disabilities are flawed. This has resulted in many evaluations that are undependable and inaccurate.

Mr. President, it would be unjust to impose this flawed decisionmaking process on any group of citizens. It is expecially disturbing to find it being imposed on the most vulnerable members of society. Unfair or erroneous disability terminations can swiftly upset the delicate balance of life outside of the mental institution for these recipients.

This amendment would not stop progress in weeding from the program those who are able to work or are collecting benefits fraudulently.

The amendment does three important things. First, it requires the Social Security Administration to revise its regulations for evaluating mental impairments. Diagnosis, treatment and standards of measurement for mental disorders are highly controversial among mental health professionals, but there is agreement that the standards now in use are error prone. Of course mental health experts would be deeply involved in revising the standards.

Second, the amendment would suspend continuing disability reviews for all of the mentally impaired until the new standards are in place, unless fraud or work activity was involved. This insures that the lives of mentally impaired recipients would not be unfairly disrupted.

Third, the amendment would also require that a qualified psychiatrist or psychologist participate in the disability evaluation of people with severe mental disabilities.

As part of this overall effort by congress and the administration, the amendment in question would allow Congress to protect mentally disabled beneficiaries and still move toward a fair periodic review process. We should continue our efforts to eliminate program abuse, but we must not abandon basic human decency in the process.

This amendment is not the only step being taken to improve the disability determination process. The administration recently announced a series of major reforms in the social security disability program. I regard these reforms as equally important as the amendment before us today because they focus on all of the disabled, not just the mentally impaired.

As a result of Secretary Heckler's announcement, fully 1 million of the 2.6 million insured individuals receiving disability benefits are now exempted from continuing disability investigations. They are considered permanently impaired. The administration has thereby added whole new categories for automatic exemption.

The Department is also changing the review process to shorten delays that now occur in appeals due to backlogs of unresolved cases. This means recipients in New Mexico would not have to wait as long for a final determination.

Finally, the administration is accelerating its comprehensive review of all policies which affect those drawing disability benefits. I find all of these developments encouraging.

The PRESIDING OFFICER. Is there further debate?

Mr. STENNIS. Mr. President, I like the amendment, I approve it. I do not know of any opposition here on this side.

The PRESIDING OFFICER. Is there further debate on the amendment?

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

Mr. HEINZ' amendment (No. 1400) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, I ask unanimous consent that the committee amendment be temporarily set aside in order that we might have the amendment of the distinguished Senator from Minnesota.

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

AMENDMENT NO. 1401

(Purpose: To allow a State to reallocate payments in lieu of taxes)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota (Mr. Durenberger) proposes an amendment numbered 1401.

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

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

The amendment is as follows:

On page 55, after line 12, insert the following:

(4) A new section 6907 is added as follows:

"(a) Notwithstanding any other provision of this chapter, a State may enact legislation which requires that any payments which would be made to units of general local government pursuant to this chapter be reallocated and redistributed in whole or part to other smaller units of general purpose government that provide general governmental services and contain the entitlement lands within their boundaries.

"(b) Upon enactment of legislation by a State, described in subsection (a), the Secretary shall make one payment to such State equalling the aggregate amount of payments which he otherwise would have made to units of general local government within such State pursuant to this chapter. It shall be the responsibility of such State to make any further distribution of the payment pursuant to subsection (a).".

Mr. DURENBERGER. Mr. President, chapter VII of this bill contains language reported out of the Energy and Natural Resources Committee in H.R. 1213. It amends the Payments in Lieu of Taxes Act of 1976 which compensates local governments for the presence of Federal tax exempt lands within their boundries. The effect of the language is to set aside a recent U.S. circuit court of appeals decision, Meade Township, and others against Andrus in which the court held the Secretary of Interior had exceeded his authority under the act in allocating payments in lieu of taxes to local governments.

The provision of H.R. 3069 at issue here would permit the Secretary of Interior to continue to allocate funds as he has in the past. The report accompanying H.R. 1213 explains the committee's opinion that this change is necessary to insure the timely payment of entitlements under the act.

The amendment I am proposing is very simple. It would permit the payment in lieu of taxes funds to continue to go out exactly as they have since the beginning of the program with one slight change. The amendment would allow a State to pass a law, if it so desired, to reallocate the funds within the unit of government receiving the funds between that unit and other units of local government contained within it. If the State decides to reallocate the funds, all of the funds reallocated must remain within the boundaries of the unit of government to which the Secretary originally made the allocation.

The necessity for this amendment arises from the courts ruling that the Secretary of Interior had erroneously applied the "principle provider of services" criterion to determine which local government received the funds. The court held that the Secretary was required by law to allocate the funds to the smallest unit of local government in which the entitlment lands were located, regardless of which government provided services.

The committee amendment to the act has the effect of setting aside this court ruling to permit the Secretary to continue applying the "principle provider of services" criterion. I have no objection to this. In fact, I think it only makes sense that if the Federal land lies in two overlapping jurisdictions, it should be that jurisdiction providing public services on the land that receives Federal compensation for the land's tax-exempt status. And if both jurisdictions provide a share of the services, it makes sense that the Federal compensation should be split between them in relative proportion to the services each provides.

The problem with the committee amendment is that it does not permit this to occur in a few cases. The Secretary of Interior has said that currently the data are not available on a timely basis to make the determination in States where significant overlapping occurs as to which jurisdictions are providing which exact services. So, the Secretary would be making—and has been in a few cases—an arbitrary determination and sending all of the payment in lieu of taxes to what he determines is the principle provider of services. This is universally the county government except in the New England States where counties do not really provide any services.

The amendment I am proposing would allow the Secretary to continue to make the allocation on the basis of his original regulations, but would simply give the States an opportunity to reallocate those moneys, within the same county, in a manner that fits the unique way services may be provided in that particular county area. This takes Congress out of the business of applying uniform rules across all States and across all local governments within a State when such a rule would distort the intent of the program.

Mr. President, although there is not a lot of money at stake here, this is the essence of the New Federalism debate. At issue here is a dispute between two types of local governments in a few States over who provides the majority of the services. Congress should not be in the business of settling these disputes. We have an obligation to see to it that money is provided in compensation for the presence of tax exempt Federal property. It is ridiculous for Congress to attempt to tailor a Federal program to take account the thousands of idiosyncratic ways local governments throughout the Nation provide public services. But, Mr. President, it is just as ridiculous for Congress to pretend these differences do not exist and to apply a uniform national standard simply for the sake of bureaucratic expendiency.

Let me reiterate that if the State does not pass a law reallocating funds, the Secretary of Interior's allocation will stand. And if the State decides in its wisdom to reallocate the money, it must be redistributed only to local governments within the boundaries of the original recipient. Furthermore, only general purpose local governments as defined by the Bureau of the Census will be eligible to receive funds under the reallocation—that is, only those jurisdictions currently eligible to receive general revenue sharing. Special districts will not be eligible unless the eligible jurisdictions negotiate an agreement with such districts as is currently the case in a few instances.

I have heard that by proposing this amendment I am somehow endangering the entire payment-in-lieu of taxes program. This is simply not true. The quickest way I know of to endanger the program is to whip up a controversy by making a few feel they have been had. The compromise I am offering would diffuse the controversy. It would provide a mechanism for subcounty level government to petition their State legislatures and prove their case.

Perhaps I make to much of New Federalism, but if Congress cannot take itself out of the business of settling local disputes when the issue is clear cut, I do not know how we will ever make progress on sorting out the big responsibilities. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I support this amendment. It is a modification of the amendment which I offered in the committee that deals with the payment in lieu of taxes program.

The need for this amendment lies in the implementation of the original PILT statute which was designed to provide revenues to that smallest unit of local government which provides general public services.

In the original administration of the act, the Department of the Interior wrote regulations and adopted definitions which resulted in the payments going to countries or their equivalents in almost every instance.

The townships in Michigan, among others, felt offended and brought suit. The court said that the regulations which had been adopted by the Department of the Interior were inappropriate. This cast a great deal of doubt on the payment in lieu of taxes program, and would have almost certainly meant that no further payments would have been made until that litigation was finally resolved. It would have also made a tremendous hiatus with respect to the status of payments that had been made under the program since the program began.

As the author of the PILT amendments in the first instance, I can say it was our intention that we create a stream of revenue that would act, in effect, as a substitute for the taxes that would have been generated upon property otherwise subject to taxation. That stream of revenues would go to that unit of government closest to that land that would have normally received those revenues under an ad valorem taxation scheme.

The Department of the Interior has reacted strongly to the Michigan case, saying that they simply are not equipped nor able to make the determinations that might be required beyond what they have done under the regulations that are in effect at the present time.

The amendment offered by the Senator from Minnesota solves that problem by saying that the State legislature must make that determination. If the State statute complies with the requirement that the lands be within the unit of government which provides that service and the revenues go to that unit of government which provides general public services in the areas where the lands are located, then the State will receive a lump sum payment. The State makes the distribution, and the State carries the administrative expense.

I should add that if the State does not make such a determination to reallocate funds, the Secretary of the Interior must continue to make PILT payments in the same manner as in the past.

I think this is an appropriate balancing between the legitimate concerns as to whether the intention of the original statute was being complied with and whether or not the Department of the Interior could be asked to absorb a greater administrative burden in attempting to meet the objections raised by the Michigan court.

This is not a perfect solution, but perhaps there is no perfect solution. I do think, however, that it is a reasonable compromise between two legitimate points of view. Although it detracts slightly from the thrust of the amendment which I had originally offered during committee markup of this bill, I have no objection to this amendment and urge it be adopted.

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

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

The amendment (No. 1401) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, I ask that the committee amendment be temporarily set aside for the purposes of the Senator from Massachusetts offering an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Massachusetts.

AMENDMENT NO. 1402

(Purpose: To provide an additional $30,000,000 for summer youth employment and training)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1402.

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

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

The amendment is as follows:

On page 67, between lines 17 and 18, insert the following:

SUMMER YOUTH EMPLOYMENT AND TRAINING

For an additional amount for part B of title II of the Job Training Partnership Act, relating to summer youth employment and training programs, $30,000,000.

Mr. KENNEDY. Mr. President, my amendment would add $30 million to this bill for the purpose of funding an additional 30,000 jobs for unemployed teenagers this summer.

I offered a similar amendment last March to the emergency jobs supplemental that was moving through the Senate. At the request of Chairman HATFIELD, I agreed to withdraw that amendment to give the chairman and the administration the opportunity to consider a separate initiative for youth that the administration would be forwarding to the Congress.

At that time, the chairman recommended that my amendment be offered instead on the next supplemental. The bill that we are now considering is the first supplemental appropriations bill to come before the Senate since Senator HATFIELD and I had that discussion last March. Senator HATFIELD also indicated that we would even gain the support of the Senator from Oregon if the amendment were postponed. I am pleased that he is still so inclined.

I want to remind my colleagues that while there has been some good economic news lately for the unemployed there has not been much for our young people to cheer about. Unemployment still stands at unprecedented levels for teenagers. One out of every five cannot find work, and for minority youth, one of every two black teenagers are jobless.

My colleagues will recall that the jobs bill we passed last March did very little to create employment for teenagers, and the program promised by the administration has yet to materialize.

We are hearing a lot these days about the importance of education in shaping the future of our youth, but I would point out to my colleagues that many youngsters will not be able to return to school in the fall or go on to college unless they have a job this summer. This amendment is a very modest addition which I think will pay a significant dividend.

I would remind my colleagues that in 1980, 840,000 summer jobs were created. At that time unemployment stood at just over 7 percent. This year, even with the funds provided in the emergency jobs bill last March, we will only employ 813,000 teenagers.

My amendment would mean opportunity for an additional 30,000 youngsters this year.

Now I know some of you will suggest that the summer is upon us and it is too late to get these moneys out to communities in time for them to spend. But I am confident that mayors all across the country will make whatever effort is required to insure that unemployed teenagers in their cities will be hired in productive jobs. I can think of no more important issue for the Senate to act on today than putting our young people to work this summer.

I thank the chairman for his support.

Mr. President, I ask unanimous consent to have a table printed in the RECORD.

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

SUMMER JOBS

[Dollar amounts in millions]

	1979	1980	1981	1982	1983 (Administration budget)	Emergency jobs bill	Kennedy amendment
Funding	$785	$725	$839	$700	$725	$825	$855
Youth served	888,000	839,000	766,000	679,000	715,000	813,000	843,000

Mr. STENNIS. Will the Senator yield?

Mr. KENNEDY. Yes.

Mr. STENNIS. That is just a summer program?

Mr. KENNEDY. That is only a summer youth program administered by the mayors. It is a program which is already in place. It is an effective program and this is an extremely modest addition.

Mr. WEICKER. Mr. President, I recommend accepting the amendment. With nationwide unemployment still in excess of 10 percent and with youth unemployment twice that level, there is no doubt about the need for more jobs for our young people this summer. I urge adoption of the amendment.

Mr. STENNIS. Mr. President, we have no objection on this side.

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

The amendment (No. 1402) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

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

FIRST EXCEPTED REPORTED AMENDMENT, PAGE 6, LINES 14-17

Mr. HATFIELD. Mr. President, I move adoption of the pending committee amendment.

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

The 1st excepted reported amendment, page 6, lines 14-17, was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment 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.

AMENDMENT NO. 1403

(Purpose: To make technical corrections in the bill)

Mr. HATFIELD. Mr. President, I call up the committee technical amendments. I send them to the desk and ask for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 1403.

On page 70, line 22, before the period insert a comma and the following: "to remain available until September 30, 1984".

On page 87, line 23, strike, "Public Law 97-424" and insert in lieu thereof "Urban Mass Transportation Act of 1964 as amended."

Mr. HATFIELD. Mr. President, these are technical amendments which have been cleared on both sides of the aisle.

The first one extends the date of the availability for handicapped educational funds, and the second one is a matter of changing the citation for the transportation section. These are technical amendments that were omitted by the printer.

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

The amendment (No. 1403) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment 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.

AMENDMENT NO. 1404

Mr. HATFIELD. Mr. President, I have another technical amendment to be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 1404.

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

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

The amendment is as follows:

In lieu of the Thurmond amendment No. 1386 at the end of page 30, insert the following:

The project for Cooper River, Charleston Harbor, South Carolina, authorized by the River and Harbor Act of 1968, Public Law 90-483, approved August 13, 1968, is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to install a closure structure in the diversion canal between Lake Marion and Lake Moultrie and to construct such measures as the Chief of Engineers determines necessary to improve the seismic stability of the Pinopolis West Dam on the Cooper River, at an estimated cost of $22,000,000: *Provided*, That nothing in this paragraph shall waive any requirements under the Federal Power Act of 1935 (49 Stat. 847): *Provided further*, That in addition to such sums as are otherwise appropriated by this Act there are appropriated and additional $2,000,000, to remain available until expended, for "Construction, general, Corps of Engineers—Civil", for engineering and design studies in connection with the project authorized by this paragraph.

Mr. HATFIELD. Mr. President, this is basically to correct and to bring into appropriate language the amendment offered by the Senator from South Carolina (Mr. THURMOND) last evening. We must conform the text of Mr. Thurmond's amendment adopted last evening with the format of the supplemental appropriations bill. The revised language also makes the $2 million provided by that amendment available until expended as is currently the case with other appropriations for the Corps of Engineers construction account.

I move adoption of the amendment.

The PRESIDING OFFICER. Is this in lieu of the earlier amendment?

Mr. HATFIELD. This is in lieu of Senator THURMOND's previously offered and adopted amendment.

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

The amendment (No. 1404) was agreed to.

Mr. HATFIELD. Mr. President, I believe we have cleared all amendments on our list except the ones dealing with honoraria and the possibility of an amendment by Mr. HUMPHREY.

Mr. BAKER. Mr. President, I have been discussing with Members for some time now as they drifted by the desk if there were going to be any more votes tonight and what time they would be out. I have been telling them that I hoped we would be out by 6:30 p.m. and I was unsure whether there would be other votes or not.

Since then, I have been advised that there is one other amendment, and perhaps two other amendments, and very likely there will be another rollcall vote tonight. I hope Members who hear me in their office will take account of that and will understand that there may be at least one and perhaps two rollcall votes this evening.

It is still my hope that we can finish today's activities by 6:30 p.m. or thereabouts.

In order to do that, Mr. President, in order to leave this bill at a fairly early hour, I think it is essential that we get unanimous-consent agreement that no other amendments would be in order except the pay and honoraria amendments. I think the Senate would be better off to debate that tomorrow rather than tonight. I will not now put such a request, but I am going to later put a request after the Senator from New Hampshire (Mr. HUMPHREY) reaches the floor and offers his amendment or amendments. I plan to put a request that no other amendments will then be in order except the honoraria amendments.

If that order is granted, then I will expect the Senate to go out until tomorrow.

ORDERS FOR THURSDAY

ORDER FOR RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 a.m. tomorrow.

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

ORDER DESIGNATING PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that on tomorrow after the recognition of the two leaders under the standing order, the time remaining from that time until 10 a.m. be devoted to the transaction of routine morning business in which Senators may speak for not more than 2 minutes.

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

ORDER TO RESUME CONSIDERATION OF H.R. 3069 ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that at 10 a.m. the Senate resume consideration of the supplemental appropriations bill.

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

Mr. BAKER. Mr. President, the Appropriations Committee and the Judiciary Committee, I am told, have markups by the full committees tomorrow morning at 10 o'clock. We have an order to go back on this measure, the supplemental appropriations bill, at 10 a.m. What I would like to do is leave that as it is at the moment and assure the chairman of the Appropriations Committee and other Senators that tomorrow, as we need to, we shall adjust those times.

If we are going to finish the supplemental tomorrow, especially if we are going to have a debate on pay and honoraria, and do interest and withholding repeal, we need all the time we can get. I should like to leave it as it is and readjust tomorrow as the circumstances permit.

Mr. President, while we await the arrival on the floor of the Senator from New Hampshire (Mr. HUMPHREY) I ask unanimous consent that I may speak as in morning business for a brief moment.

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

CONGRATULATIONS TO SENATOR TOWER

Mr. BAKER. Mr. President, I take this opportunity to call to the attention of my colleagues that today is the 22d anniversary of the swearing in of the distinguished senior Senator from Texas (Mr. TOWER) as a Member of this body. It was 22 years ago today that Senator TOWER arrived from Texas and took his place here, in this Chamber. He has served with distinction since that time and, as one of the senior Members of this body, Senator TOWER, in my view, exemplifies the honor, dedication, and commitment that are the marks of an effective Senator.

For over 20 years now, Senator TOWER has been a powerful watchdog for the concerns of Texas and the Nation and during the last 2½ years, as the distinguished chairman of the Senate Armed Services Committee, he has been most instrumental in assisting President Reagan in his efforts to rebuild our Nation's defenses.

I am most proud to serve alongside JOHN TOWER in the Senate, and I am sure that my colleagues on both sides of the aisle will join me in sending our deepest congratulations to Senator TOWER on this special anniversary of a very special public service career.

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

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

SUPPLEMENTAL APPROPRIATIONS, 1983

The Senate continued with the consideration of the bill (H.R. 3069).

O'NEILL UNIT, ALASKA

Mr. EXON. Mr. President, if I may have the attention of the managers of the bill for just a moment, I thank the chairman of the committee and the ranking minority member for the total cooperation they have given the Senator from Nebraska with regard to our attempts to reduce substantially the construction costs on an important irrigation project in Nebraska. I believe that a colloquy is in order and has been agreed to.

I inquire of the manager of the bill, the distinguished chairman of the committee (Mr. HATFIELD) if this would be an appropriate time to have that in the record.

Mr. HATFIELD. Mr. President, the Senator is correct. It is always somewhat puzzling to me, when Congress acts with such precision and clarity on certain really noncomplex issues, that people in the bureaucracy can find ways to twist or turn it or misinterpret it. The Senator from Nebraska was very concerned about a report in a Nebraska newspaper which I shall include in the record about interpreting an amendment that the Senator offered, which the committee accepted.

The committee adopted a bill provision proposed by the Senator from Nebraska (Mr. EXON), which provides for further study of the Norden Dam, O'Neill unit of the Pick-Sloan Missouri River Basin program.

There have been recent press accounts, as I mentioned, regarding this provision which do not reflect the clear intent of the Senate on this legislation. A Bureau of Reclamation official has been quoted as stating that the agency may not have authority to participate in this study.

Mr. President, the bill language relating to the study of alternatives to the Norden Dam, O'Neill unit, project in Nebraska is clearly intended to authorize and direct the Bureau of Reclamation to participate in a joint study with the State of Nebraska.

It is the committee's intent that the bill provision, together with the report language, directs the Secretary of Interior to participate and help finance this State-led study and to contract with the State if necessary to help undertake the work. We believe that the legislative history on this point is clear.

In addition, the bill provides funds in fiscal year 1983 to initiate this study. Further, report language indicates that the committee expects to provide follow-on funding as required in the appropriations process to continue this effort.

In order to make it more clear, if that is necessary, Mr. President, I ask unanimous consent to have the newspaper article and the documentation printed in the RECORD at this point.

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

[From the World-Herald Bureau]

BUREAU UNSURE IF IT CAN FUND WATER STUDY

(By Mary Kay Quinlan)

WASHINGTON.—The Bureau of Reclamation hasn't determined whether it could legally give the State of Nebraska cash to help finance a study of cheaper alternatives to the O'Neill Unit water project in Nebraska, of which the Norden Dam is a part.

A bureau official said Tuesday that a Senate supplemental appropriations bill's language is not clear.

"We haven't had it researched," said William C. Klostermeyer, an assistant commissioner of reclamation.

Sate officials have indicated in a memorandum that they want about $100,000 in cash from the bureau.

The funds would be used for a state-led study of ways to irrigate the O'Neill area without building a large dam on the Niagara.

If the provision calling for bureau participation in a state-led study stays in the final version of the bill, bureau lawyers would have to determine whether its legislative history authorizes the agency to give cash to the state, Klostermeyer said.

"I don't know if the language is sufficient to permit it (bureau aid) in the form of cash," he said.

He said the bureau insisted last year that Congress specifically authorize it to make a cash contribution to Nebraska for a Platte River study.

Normally, Klostermeyer said, the bureau provides technical assistance to states for water resources studies.

Or study responsibilities be divided, with the bureau doing part of the work and a state doing part, he said.

Sen. J. J. Exon, who sponsored the language in the Senate bill, has asked the bureau whether it has the authority to give cash, an Exon aide said.

Bureau officials have "totally skirted giving any answer, but they've never said no," he said.

H.R. 3069

[Report No. 98-148]

The Secretary of the Interior shall, under the general investigations authority, engage in a joint, State-led study with the State of Nebraska of cost effective alternatives to the Norden Dam, O'Neill unit of the Pick-Sloan Missouri River Basin program, Nebraska; and shall use available funds to initiate such study. The study period shall not exceed 18 months. No funds shall be expended for any construction activity for the Norden Dam, O'Neill unit prior to the completion of this study.

The Committee has included a provision which directs the Secretary of the Interior to undertake a joint study with the State of Nebraska to investigate cost effectiveness alternatives proposed by the State to the Norden Dam, O'Neill unit of the Pick-Sloan Missouri River basin program, Nebraska. Total Federal costs for this study shall not exceed $100,000, and the Secretary is encouraged to immediately initiate Federal participation in fiscal year 1983. The Committee expects to provide follow-on funding as required in the regular 1984 appropriation process to continue this effort. The Committee further directs the Bureau to make Federal funds available to the State of Nebraska to assist in this joint, State-led study of alternatives.

PUBLIC LAW 97-338—97TH CONGRESS

An Act to authorize the Secretary of the Interior to participate with the State of Nebraska in studies of Platte River water resource use and development, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to engage in a special study to assist the State of Nebraska in establishing water resource conservation and development priorities, consistent with constitutional and statutory provisions of the State of Nebraska, in the Platte River Basin from the western border of the State of Nebraska to the confluence of the Platte and Missouri Rivers.

The purposes of the study shall be to—

(a) determine the availability of water resources within the basin;

(b) identify, define, and quantify the existing and foreseeable intrabasin and interbasin demands on such resources within the State of Nebraska (including irrigation, ground water stabilization and recharge, enhancement of water quality, small community and rural domestic water supplies, management of fish and wildlife habitat, public outdoor recreation, preservation of scenic qualities, flood control, hydroelectric power development, municipal and industrial water supplies, and such other demands as the study may identify);

(c) identify, evaluate, and estimate costs for alternative methods of meeting the identified water demands, including but not limited to withdrawals from the Platte River, ground water pumping, water conservation, and improved water management; and

(d) resolve the identified conflicts by making specific recommendations on the full and best utilization of the available water supply, including a priority ranking for implementing recommended water conservation and development projects.

SEC. 2. The special study authorized by section 1 of this Act shall be a Federal-State study conducted jointly by the Bureau of Reclamation and the Nebraska Natural Resources Commission. The broadly constituted study body responsible for making the recommendations required by section 1 shall consist of such citizens, representatives of agricultural, environmental and development groups, State and lcoal officials, and Federal agency representatives as the Governor of Nebraska and the Secretary shall jointly determine. Federal agencies invited to participate shall include, but not be limited to, the U.S. Geological Survey, the U.S. Fish and Wildlife Service and the Environmental Protection Agency. The special study authorized by section 1 of this Act shall be completed within thirty months after funds are first appropriated under this Act.

SEC. 3. (a) There is hereby authorized to be appropriated the sum of $350,000 to carry out section 1 of this Act. One-half of this sum shall be made available as a grant to the Nebraska Natural Resources Commission and shall be matched equally by direct contribution or inkind services by the State of Nebraska, its political subdivisions, or other non-Federal entities.

(b) The sums expended or services provided by the State of Nebraska, its political subdivisions, or other non-Federal entities after March 9, 1982, for the purposes of this Act shall be considered in the determination of the matching non-Federal share.

Mr. EXON. Mr. President, once again, I thank my distinguished friend and colleague, the manager of the bill, for his usual cooperation, understanding, and leadership.

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

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

AMENDMENT NO. 1405

(Purpose: Relating to a flood control project on the Pearl River, Miss.)

Mr. HUMPHREY. 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 New Hampshire (Mr. HUMPHREY) proposes an amendment numbered 1405:

On page 30, lines 5 and 6, strike out "and construct and undertake".

On page 30, line 11, strike out "at a currently estimated cost of $26,500,000,".

On page 30, beginning with "Expenditures" on line 13, strike out all through the period on line 20.

Mr. HUMPHREY. Mr. President, I think Senators are aware that from time to time the Appropriations Committee makes available for expenditure or obligation funds that have not been authorized in the usual way. By the usual way, I mean formal legislation not having been issued by an authorizing committee.

At the very least, this is a circumvention of the normal process of business. At the worst, it is, if I may say so, a usurpation of authority by the Appropriations Committee at the expense of authorizing committees. It appears to this Senator at least, although I have not conducted any kind of scientific study, that this trend is growing worse all the time, that is, we are seeing more and more cases of the Appropriations Committee providing funding for projects that have not been properly authorized.

I am going to be offering two amendments this evening, the first of which is before us and the second amendment is a general sort of amendment that would apply to all cases within the appropriations bill presently before us where the appropriations are lacking in an ordinary authorization.

But in any case, the first amendment which is now before us is directed specifically at a project called the Pearl River flood control project in Mississippi. I do not choose this one for the reason of making life difficult for my colleagues from Mississippi. I have great respect for both of them. But this particular case seems to me to be one of the worst contained in this bill for the reason that not only is money being authorized in the absence of an authorization from the Committee on Environment and Public Works, which is the normal procedure, but language within this appropriation bill appropriates money for the Pearl River flood control project. So the Appropriations Committee has not only gone beyond usurping the authority of the Public Works Committee to authorize projects but is actually authorizing it. It is not only providing the money but providing the authorization, which is possibly unheard of. I hope it is.

But in any case, here it is before us. The Appropriations Committee is not only making money available for a project not considered and approved by the Committee on Environment and Public Works, but it is also placing authorizing legislation within the body of this appropriations bill.

I have no doubt, Mr. President, that my colleagues from Mississippi will make an appealing and perhaps even a convincing case on the merits for this particular project, the Pearl River flood control project. I am not here to argue in favor of floods, although I might be cast in that light. I am here to argue for regular procedure.

There are some 62 flood control projects presently under review by the Executive in Washington. All projects must go through a number of review stages before construction is authorized. The flood control project for Jackson, Miss., the Pearl River flood control project, funding for which is included in this appropriation, circumvents the entire process. This appropriation, if passed as it is, will place ahead of these 62 projects going through the normal channels of approach in the Executive and then coming before the Committee on Environment and Public Works for review and possible authorization of the Pearl River project. The Pearl River project by means of language in this bill is going to circumvent completely that process. It is going ahead of 62 other flood control projects presently working their way through the process in the Executive and ultimately would come to the legislature, to the Committee on Environment and Public Works.

In summary, Mr. President, my objections are to the Appropriations Committee usurping authority, providing money where there is no authorization from a relevant committee, and in this specific case going beyond providing money when there is no authorization, going beyond that and providing authorizing language itself. Imagine it, the Appropriations Committee providing authorizing language in an appropriations bill. It is a highly objectionable procedure, highly irregular, highly improper. I am not arguing against the merits of the Pearl River flood control project. I am arguing against the procedure involved. I am arguing against placing it ahead of 62 projects with merits just as compelling as the merits behind this one.

I urge my colleagues, Mr. President, to adopt this amendment, to delete the funding for the construction and also the authorization language so as to allow this project to proceed through the normal channels of review in both the executive and legislative bodies of our Government.

Mr. COCHRAN. Mr. President, I rise to strongly oppose the amendment offered by the Senator from New Hampshire.

I have read that the amendment is brought up at this point to challenge the need for the funds that are included in this bill for doing some emergency work in the Pearl River Basin in Mississippi, where recent floods have caused millions of dollars of damage to homeowners and to businessmen and women who have seen, for the fifth time since March 1980, their homes and businesses inundated by floodwaters in this river basin.

What we are confronted with, Mr. President, is an emergency situation. In 1979, this area experienced what was called by the Corps of Engineers and other experts a 500-year flood. As a result of that flood in 1979, under the Government's disaster assistance program, some $36 million in disaster benefits and aid were paid out to flood victims.

We are talking about a $2.3 million appropriation in this supplemental to try to help minimize future flood damage.

After the 1979 flood that I just mentioned, the Corps of Engineers was authorized to proceed with a comprehensive review of the situation, to come up with measures that could be undertaken to help minimize this kind of damage from occurring in the future. That comprehensive plan for flood control has been underway; a study has been underway by the district engineer of the Corps of Engineers in Mobile, Ala., since that time. We understand that a comprehensive plan will be presented to Congress, maybe as early as September of this year, which could include some proposal for a major construction effort.

That is not the subject of this provision in this supplemental appropriations bill. This committee is not recommending to the Senate that it approve a major comprehensive plan for flood control in that area, because the study has not been completed.

However, preliminary findings indicate that some immediate steps could be taken to help minimize damages. Before that could be funded or implemented, another flood, almost as serious as that which occurred in 1979, occurred just this year. As a matter of fact, three floods have occurred this year. The most recent was the most serious, and the national news reporters graphically portrayed the damage and the problems throughout the country, over television and in the newspapers. It is common knowledge in this body that Jackson, Miss., was inundated with floodwaters, that this has become a problem that needs immediate attention.

This provision is necessary in this bill to save the Government money, just in disaster money that it is required to pay out each year. We have seen five different floods occur since 1980. There have been 17 in this century.

My hope is that the Senate will support the findings and the decision of the Senate Committee on Appropriations, which recognized the seriousness of the problem, the emergency nature of the problem. The authorizing committee, while it has been conducting hearings and looking into problems throughout the country, has not reported a bill authorizing any flood control activity in 7 or 8 years, as I understand it.

There probably will be a proposal before the Committee on Environment and Public Works to authorize a major flood control effort in this basin, but that is not the subject of this provision in this bill. This is an emergency, temporary procedure that has been indentified by preliminary studies as feasible and appropriate to take in order to help minimize the damage that will continue to be sustained in this area unless these funds are made available.

Mr. President, the committee took a careful look at this. I met last week with the district engineer and his staff in Mobile to go over this plan for helping us minimize the damage in this area, and I can assure the Senate that this is not something that has not been reviewed or carefully studied by either the Corps of Engineers or a committee of Congress. It certainly has had the close attention of representatives of the Senate and of the Corps of Engineers.

I hope the Senate will reject the amendment.

Mr. STENNIS. Mr. President, I do not mind one bit anyone exercising their constitutional right to come in here and offer amendments. As a practical matter, though, I think it is well to choose a time other than right at the end of the bill, particularly when we are so far behind in the schedule this week. But those are incidental matters.

Mr. President, the rainfall in the area affected there, within the last 30 days, has been without parallel, and it was not peculiar just to that place. It has been an irregular season.

I saw a graph showing that in the last 6 months there was more rainfall in this area served by Pearl River than there had been in the preceding 12 months—just by that gage. Another time in the Pearl River Valley, and more recently, there were 13 inches of rain, I think, within 6 days. The ground becomes full of water, and the streams finally run off and reach the flood stage.

My colleague and I went down there and went through the areas. We did not go together. This was not just looking at the high water and going back and having a drink. We went through those rugged places and waded through water, drove all over the affected part of the city, went into places of business that were victimized, went into residential areas.

The Red Cross and the Salvation Army were there providing food. There was no food in those residences because of the flood, and all the electrical devices for cooking were not operating. There were no groceries, no refrigeration. Little children were standing around, some of them crying. There was a mother with a child in her arms. Water had already come up 3 or 4 feet high in some places inside the houses, ruining everything—carpets, shades, wallpaper.

It was a terrible sight. There was agony by the block. That was not one, two, three, or four houses. It was blocks and blocks, because of this torrential amount of water. There was not enough to hold it.

Talking about waiting until the engineers can complete the project and make a survey and make calculations, that takes weeks and months. Fortunately, the time was here when bills of this type were moving along, and there was a certain amount of fundamental information. The $2.3 million in the bill now is just to pay for some of the preliminary work that has to be done to make a real calculation.

The bill is going to run high. I mean the bill to make an effective installation there that will control this water.

It has a number of extraordinary facts about it that are hard to control. My colleague has already spoken about the flood in 1979 which was bad but not anything like the problem that is presented now by this one. Something on a very large scale is absolutely necessary.

I have been and still am a strong advocate of having the authorization first and then the appropriations. I have been on an authorization bill in the committee and the appropriations bill for a long, long time.

Something along that line is necessary, but there has to be emergency outlets for everything. We cannot have a perfect rule and apply it at all times under all circumstances.

So if there is anything like an emergency ever going to occur this is one of them. Mount St. Helens is another one—just remember 2 or 3 years ago—and that is not all cured yet. There are items in this bill now for Mount St. Helens and there is authorization and money also for things that have more recently developed and studied.

That is true with reference to a current earthquake in California. We better get all those over here now who have had earthquakes and something in the bill for them and also matters like Mount St. Helens or any other flood or anything of that kind.

I do not see how we can improve on our system of work here. We have taken all this time getting these facts together through the guidance of professional men, the engineers, and have taken all this time going through the committees with it.

The Senator from New Hampshire is one of my favorites, but I did not see him at any of these hearings trying to check up on this thing. Here we have been in debate and the bill has been on the floor here almost 10 days, and the Appropriations Committee chairman has been begging for Senators to come on in with their amendments so we could make a study and dispose of them. The floor leader for the majority has been downright pleading and begging over and over in his gentlemanly way for everyone to come on now as fast as you can and get these amendments moving, get in here and offer them, and part of that is to let the other side know what the alleged facts are and have it checked out.

So now here at the last I would not deny him his constitutional right but it is just upside down in method, it seems to me, to come in here at the last moment now and to try to set aside all this work that has been done.

It will make it cost the people more in the long run who have been affected. I am thinking about the flood again now on the Pearl River. This is not strange country to us. My colleague lives there at Jackson. I have been going there a good number of years and up and down this Pearl River all the way to the coastline and up where it rises up near where I live.

So, we are asking our colleagues there now to bear with us a little and make an emergency out of this thing—that is exactly what it is—and give us this little appropriation of $2.3 million for the immediate use, not put it off any more, for the Corps of Engineers that are down there and have been there on duty all the time, and the mayor of Jackson is quite almost an engineer himself now because he has been at it so much day and night.

We need Senators help now. We are not begging for anything for us, but we are begging for Senators to act promptly as they possibly can, and most all the processes of legislation have already been taken care of, and I think now we should have a vote as soon as we can to dispose of these things with dispatch.

Talking about unauthorized matters in the bill again, if we are going to do that there are dozens of them in here and just of necessity or something special about them or they would not get in the bill. There are the Utah mudslides. We went into that. I have already mentioned the California earthquakes and there is something here about Santee-Cooper in Charleston, S.C. We met a condition that was given to us here in the committee yesterday afternoon. It had been thoroughly and exhaustively gone into as an emergency.

We are not begging for anything, but we are asking Senators to help stop this destruction down there and give those people a chance to repair the damage, get back to where they can live in their homes and work in their business places and let this whole thing move along on a scientific basis.

I thank the Chair and I yield the floor.

Mr. HUMPHREY. Mr. President, I do not blame my colleagues from Mississippi for being somewhat exercised that their particular project has been singled out.

The truth is there are scores of projects in this appropriations bill for which there are no authorizations. It is getting worse all the time.

I chose this particular one because it happens to stand out more than others, but I am not arguing against the merits. Let me make clear to my colleagues and in particular my colleagues from Mississippi that my amendment does not strike the $2.3 million requested for design and research. That money is there, I say to Senator STENNIS and Senator COCHRAN. My amendment does not strike that funding. It will be there for research and planning, even though I object frankly to appropriating of money for which there is no authorization. What my amendment does is to strike the language in the bill relating to this project, striking the language which authorizes construction.

Here we have the Appropriations Committee not only appropriating money for which there is not authorization but going beyond that and placing authorization language into an appropriations bill.

I read from page 10:

> The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to design and construct.

There is authorization for construction. It is not just a provision of money without an authorization. It is putting authorization language into an appropriations bill.

The Appropriations Committee is not satisfied with appropriating money for which there is no authorization. Now they are putting authorizing language in the appropriations bill. That strikes me as going much too far.

So my amendment would strike that authorization. It leaves $2.3 million, even though there is no authorization for that appropriation—it leaves it. It would only strike the authorizing language to construct. That is the purpose of my amendment.

The Senator from Mississippi (Mr. STENNIS) has remarked on the upside-down nature of my resorting to an amendment for this purpose. I suggest that I am trying to correct an upside-down situation where a project is not only being funded in the face of a lack of an authorization but the Appropriations Committee is also placing authorizing language into a bill.

That seems to me to be the upside-down situation, and I am trying to rectify that.

I will agree with my friends from Mississippi that it is a little bit unjust for me to pick on this project because in truth there are scores of projects in the appropriations bill for which there is no authorization.

So I urge my colleagues to accept this amendment, Mr. President, and 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. COCHRAN. Mr. President, I do not mean to prolong the debate, but in closing let me just say there has not been an authorization of a flood control project in this Congress for 7 years.

There has been no major construction project approved by the Appropriations Committee for 13 years. The Appropriations Committee has been looked to to provide authority for appropriations for emergency projects that are clearly needed and whose benefits clearly outweigh the costs of those projects.

In 5 years this basin has sustained damages well over $300 million, and we are talking about steps that would clearly save in this most recent flood about $70 million. So I hope the Senate will reject the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alabama (Mr. DENTON) and the Senator from Kansas (Mrs. KASSEBAUM) are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), and the Senator from Colorado (Mr. HART) are necessarily absent.

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

The result was announced—yeas 2, nays 93, as follows:

[Rollcall Vote No. 149 Leg.]

YEAS—2

Humphrey	Proxmire

NAYS—93

Abdnor	Boren	Cochran
Andrews	Boschwitz	Cohen
Armstrong	Bradley	D'Amato
Baker	Bumpers	Danforth
Baucus	Burdick	DeConcini
Bentsen	Byrd	Dixon
Biden	Chafee	Dodd
Bingaman	Chiles	Dole

Domenici	Kasten	Pryor
Durenberger	Kennedy	Quayle
Eagleton	Lautenberg	Randolph
East	Laxalt	Riegle
Exon	Leahy	Roth
Ford	Levin	Rudman
Garn	Long	Sarbanes
Goldwater	Lugar	Sasser
Gorton	Mathias	Simpson
Grassley	Matsunaga	Specter
Hatch	Mattingly	Stafford
Hatfield	McClure	Stennis
Hawkins	Melcher	Stevens
Hecht	Metzenbaum	Symms
Heflin	Mitchell	Thurmond
Heinz	Moynihan	Tower
Helms	Murkowski	Trible
Hollings	Nickles	Tsongas
Huddleston	Nunn	Wallop
Inouye	Packwood	Warner
Jackson	Pell	Weicker
Jepsen	Percy	Wilson
Johnston	Pressler	Zorinsky

NOT VOTING—5

Cranston	Glenn	Kassebaum
Denton	Hart	

So Mr. HUMPHREY's amendment (No. 1405) was rejected.

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

Mr. COCHRAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will please be in order.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I understand the distinguished Senator from New Hampshire has another amendment. Could I inquire of him, for the purpose of scheduling, how long it will take him to present that amendment and whether he will ask for a rollcall vote?

Mr. HUMPHREY. I will ask for a rollcall vote. I would say it would require 20 minutes of discussion at the most.

Mr. BAKER. I thank the Senator. There is one other matter I would hope to have us consider.

Let me outline the plan I would like to suggest that the Senate follow.

It is clear that at least on the issue of pay and honoraria we cannot finish debate and resolve the issue tonight. It is also clear that if we do not finish the supplemental appropriations bill tomorrow, we will never get to interest-dividend withholding, which we simply must do tomorrow.

Mr. President, I would like to get unanimous consent that, after the Humphrey amendment is dealt with, no other amendments be in order except amendments dealing with pay and honoraria. If the minority leader is prepared for me to put that request at this time, I will do so.

Mr. President, I put the request at this time.

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

Mr. BAKER. I thank the Chair.

Mr. President, there willl be one more rollcall vote tonight. That will be on the Humphrey amendment, the debate on which is about to occur. There wil be no rollcalls after that until tomorrow. The Senate will convene tomorrow at 9:30 a.m. We will be back on the supplemental appropriations bill at 10 a.m. It is the intention of the leadership to ask the Senate to finish this bill tomorrow and also to try to finish the interest-dividend withholding tomorrow. If we can do both of those things, we will not be in session on Friday.

Mr. President, I yield the floor.

Mr. HUMPHREY. Mr. President, could we have order?

The PRESIDING OFFICER. The Senate will be in order.

AMENDMENT NO. 1406

(Purpose: To limit the availability of appropriations to programs not formally authorized)

Mr. HUMPHREY. Mr. President, now that the Senate has gone solidly on record as being opposed to floods, I want to try to address this matter in another way. My point in raising the amendment on Pearl River was not to single out that particular project and certainly not to give my colleagues from Mississippi a dilemma, but to bring up the issue that the Appropriations Committee has included in this bill scores of projects for which there is no authorization. It seems to this Senator, at least, that this is a trend which is going the wrong way. We see this more and more often, where the Appropriations Committee provides money where there is no authorization, where there has been no hearing or consideration of the case by the authorizing committee.

Mr. President, I am going to try to address this matter now in a more general sort of way.

I send an amendment to the desk which I ask to be considered at this time.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) proposes an amendment numbered 1406.

On page 125, between lines 7 and 8, insert the following:

SEC. . Expenditure or obligation of funds appropriated by this Act is restricted to programs for which a formal authorization exists.

Mr. HUMPHREY. Mr. President, may we have order?

The PRESIDING OFFICER. There will be order in the Senate.

Mr. HUMPHREY. Mr. President, the language of this amendment is very brief, very simple, one sentence. It says:

Expenditure or obligation of funds appropriated by this Act is restricted to programs for which a formal authorization exists.

Mr. President, Senators have told me in private that they try and protest against the appropriation of money where there is no authorization, so here is an opportunity to do more than simply protest verbally. Here is an opportunity to cast a vote against a procedure increasingly common in this body, it seems to this Senator. Here is an opportunity to cast a vote against the procedure by which the Appropriations Committee makes money available in the absence of an authorization. It is that simple. There are scores of projects funded in this appropriations bill which are not authorized by the relevant committee, projects which have not been reviewed by that committee.

May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HUMPHREY. It seems to this Senator, Mr. President, that this institution is falling down around us. I do not believe that is an overstatement. We have seen it with respect to the budget process. We have seen it especially with respect to the appropriations process, and increasingly so.

Here is an opportunity, in effect, to strip from the appropriations bill, this appropriations bill, all appropriations for which there is no authorization.

I have reason to believe if a point of order is raised against the amendment the Chair will rule that it is, in fact, in order. I hope that more than two of my colleagues will support this amendment. I believe we must do something. I do not know how it is going to be done. I do not expect to prevail on this vote. But I, for one, am going to continue to register opposition and to oppose in every way I can find the irregularities which are cumulative and which are eating away at the foundations of this body. I believe this place is coming apart because of expedients such as this.

Mr. SYMMS. Will my colleague yield?

Mr. HUMPHREY. I yield.

Mr. SYMMS. I thank my colleague for yielding.

Mr. President, H.R. 3069, the supplemental appropriations bill for fiscal year 1983 contains several provisions which are within the jurisdiction of the Environment and Public Works Committee's Subcommittee on Transportation.

The Subcommittee on Transportation held a long series of hearings during the 97th Congress which culminated in the passage of the Surface Transportation Assistance Act of 1982. This bill made an additional $4 billion available for the Federal-aid highway program in fiscal year 1983, and will increase spending even further in fiscal years 1984 through 1986.

While the Federal Government cannot and should not meet all the highway needs of the States and localities, I believe the STAA of 1982 will

go a long way in addressing the most important national needs of the highway system.

Historically, the Federal-aid highway program has worked on the basis of the Federal Government providing funds in broad categories with the States and localities taking the responsibility for selecting the specific projects for funding. I believe this policy has resulted in one of the most cost-effective Federal grant programs we have ever had.

The Federal-aid highway program is the only large Federal grant program that I am aware of that is funded by contract authority. Highway users pay taxes into the highway trust fund and this money is then available only for expenditures on the Federal-aid highway system. The Committee on Environment and Public Works authorizes the Federal-aid highway program. Because this program is funded by contract authority, the funds authorized can be immediately obligated by the States. The program does not go through the usual appropriations process. Therefore, our committee has both authorizing and spending jurisdiction over this program.

Mr. President, there are several provisions in H.R. 3069 which cause me great concern as chairman of the Subcommittee on Transportation.

First, the bill contains a provision which directs the Department of Transportation to make $5 million available to Georgia from section 144 of title 23 for the Talmadge Memorial Bridge project in Savannah. In the past, appropriations acts have designated bridges as eligible for funds under the discretionary bridge program. Over 75 high-cost bridges now have legislative history and are waiting in line for $200 million in annual assistance. The discretionary bridge program was designed to replace and repair bridges that create a public safety hazard because of their extreme state of disrepair and which are a very high priority within the State.

The STAA of 1982 included a new provision which requires that bridges must meet certain criteria which results in a rating factor to be eligible for these funds.

While there may be very good reasons to replace the Talmadge Bridge because of navigation problems, according to the Department of Transportation, the structural condition of the bridge is very good compared to many other bridges. The bridge has a high sufficiency rating and the problem is primarily functional obsolescence. Under existing law, the bridge would not be eligible for funding under the discretionary bridge program. I do not believe it is fair to take funds away from other projects which are eligible for these funds and which have been waiting in line for them.

Second, H.R. 3069 appropriates $6.5 million for the Vista Boulevard interchange near Sparks, Nev.

The STAA of 1982 increased the level of funds for the Interstate 4R program from $800 million to $1.95 billion in fiscal 1983. This will increase to over $3 billion in fiscal 1986. The Vista Boulevard interchange is eligible for these Interstate 4R funds. Again, according to information from the Department of Transportation, the existing Vista Interchange has no structural problems. The bridge itself has a very high sufficiency rating of 85. The problem appears to be one of poor geometrics and the larger trucks are having some problems negotiating the interchange. This will be a fairly common problem throughout the country particularly with older sections of the interstate. This is one reason additional Interstate 4R funds were provided. If the States expect Federal funds to address this problem over and above the regular Federal-aid highway program, the cost to the Federal Government could be tremendous.

Finally, the Surface Transportation Assistance Act of 1982 provided that for fiscal year 1983, $75 million would be available from the highway trust fund for park roads and parkways. Previously these funds were appropriated from general revenues. The STAA of 1982 also stipulates that this money is to be allocated by the Department of Transportation in cooperation with the Department of the Interior by a formula based on relative needs. The report accompanying H.R. 3069 lists projects which are eligible for these funds. I understand that this list comes from the Department of Transportation and the National Park Service and is their priority listing on the basis of needs as required by Public Law 97-424. I will not object to such a listing, but I believe it must be understood that these funds are to be allocated by formula on the basis of relative needs as required by Public Law 97-424. It must also be understood that these figures which are listed in the report are the Department of Transportation and Department of the Interior's best estimate at this time of what these projects will cost. The actual cost of the project may be somewhat different. As chairman of the Subcommittee on Transportation, I believe it is extremely important that this money continues to be allocated by the formula required in Public Law 97-424.

Mr. President, the Congress passed one of the most significant highway bills in recent history 5 months ago. It greatly increased spending for the program at a time when many other programs have been cut. The program is working well. I believe appropriating funds for highway projects for which there is no authorization is detrimental to this program. As chairman of the Subcommittee on Transportation which has both authorizing and spending responsibility for this program, I believe it is inappropriate to authorize specific highway projects through an appropriations bill.

Mr. President, I doubt if the Senator's amendment will be adopted, but I think he is bringing something to the attention of the Senate that needs to be brought to the attention of the Senate. Somehow this has to be worked out. The entire budget and appropriations process is becoming completely out of hand. I thank the Senator for offering the amendment. I will vote for it.

Mr. HUMPHREY. Mr. President, may we have order?

The PRESIDING OFFICER. There will be order in the Chamber.

Mr. HUMPHREY. I thank the Senator from Idaho for his supporting comments.

As I said, there are scores of projects in this appropriations bill with no authorization. For every one of those projects, there are two Senators who support it. I do not expect to do very well, but I must register a protest, especially as a member of the Committee on Environment and Public Works which has been completely circumvented in this process with respect to water works and other public works projects.

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. HATFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. May we have order in the Senate?

Mr. HATFIELD. Mr. President, I am not going to take a great deal of time, but I do think the record ought to be made in response to the amendment offered by the Senator from New Hampshire.

I certainly want to assure the Senator from New Hampshire that the Appropriations Committee is not interested at all in taking over authorizing responsibilities. We have enough problems just handling the appropriations matters. But I think the Senator from New Hampshire does not see the problem. I think the Senator from New Hampshire has tried to correct an institutional problem on a supplemental appropriations bill. It simply cannot work. We have to address the institutional problem with where we get the authorizing committee actions to precede the Appropriations Committee actions.

Mr. STENNIS. May we have quiet?

The PRESIDING OFFICER. There will be order in the Chamber.

Mr. HATFIELD. You will not solve that problem in this one bill. Let me

say, this is another way to get to the Pearl River project that he was defeated on. He only got two votes.

This is the same kind of approach to get to this same project.

In addition to that, let me say to the Senator, we go to the question of the Pribilof Islands off Alaska; the Justice Department—none of those programs has been authorized in all accounts in the Justice Department. Does the Senator want to close the Justice Department down?

There are the FTC, many projects in NOAA, in the Transportation Act, the Georgia and Nevada bridges; the International Monetary Fund, and all foreign aid.

The B-1 bomber is not specifically authorized in one of the amendments. The water projects including projects in Illinois, Louisiana, Texas, Mississippi, Alabama, Oregon, Washington, California, New York, Florida, Colorado, Wyoming, Oklahoma, Montana, South Dakota—that is basically because there has not been an authorization in 7 years, no major authorization in 12 years.

We also get involved with the Agriculture Subcommittee and all rural water and waste disposal plants.

In the Interior Subcommittee, it involves SPRO and all the Department of Energy—none of the accounts in the Department of Energy.

Consequently, this, as I say, does constitute a real problem for the institution of the Senate. The Senator, I fear, does not really understand or does not see the problem. We are not going to correct that problem here, on this bill, tonight. I urge my colleagues to vote "nay" on this.

Mr. HUMPHREY. Mr. President, I do not want to prolong matters unduly and I shall not. The Senator is right. We have an institutional problem. I do not see how we shall ever get to correction of that problem if we continually accede to these expedients. The Senator from Oregon has read off a list of States accommodated by this bill in the way of appropriating money where there is no authorization. It was quite a lengthy list, even more lengthy than the Senator from New Hampshire had realized. The Senator from Oregon, whether he intended to or not, made my point on that score.

Having totaled up those States and multiplied by two, I can see we are not going to do terribly well on this. I hope I have made a point to some extent. Since I can see the futility of it at this point, unless somebody objects, I shall ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER (Mr. BOSCHWITZ). Is there objection?

Without objection, it is so ordered.

The amendment (No. 1406) was withdrawn.

Mr. HUMPHREY addressed the Chair.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I should like in all sincerity to put a question to the chairman of the Committee on Appropriations: How does he propose that we get at this problem?

Mr. HATFIELD. Mr. President, I think this is going to take a matter developed by the leadership as to when and how they want to address it. I have some suggestions I should be very happy to share with the Senator—perhaps combine the authorizing and Appropriations Committee as one. Perhaps we can get rid of the whole authorizing process in that way. There are different ways.

I am not here tonight to try to reform the Senate. I only say there are different ideas that have been expressed to the leadership of the Senate, in the Rules Committee, the caucus, and the policy lunches we attend. When all decide we want to reform it, we will get it reformed.

Mr. HUMPHREY. Mr. President, the situation is simply intolerable. Something must be done. I put a question to the majority leader: What can we do about this? When can we do something? It is feeding on itself. It is cumulative, it is metastasizing. It is a nasty situation that bring disrepute on this body and on ourselves. It is getting worse all the time. What are we going to do about it?

Mr. BAKER. Mr. President, if the Senator will yield, I understand. I do not disagree with the Senator's observations. I have often commented on the fact that, over the years, one way or another, we have sort of rendered the two-tier system a nullity, the authorizing and the appropriating process. One way or another, we need to address that question. It is now a three-tier system. We have authorizing, we have appropriating, we have budget. The very uncertainty of the system cries out for some sort of readjustment.

Congress, however, the Senate may be less well than the House in many ways, has a way of dealing with messy situations. In this case, that is exactly what we have done. For instance, I have tried to take the position that we simply must deal with the authorizing bills before we can take up the four appropriations bills given us by the House. After I had my staff research it, I found out that the authorizing bills did not really deal so much with authorizing appropriations to be made as it did authorizing new programs which were largely entitlements rather than appropriating funds. So it is neither fish nor fowl, really.

The Senator is right: It is a mess. It has sort of grown up into a situation that I know the chairman of the Appropriations Committee is not happy with, nor are the chairmen, I suspect, of the several authorizing committees. Senator DOMENICI is living proof of the fact that he is frustrated over the whole situation.

The only solution to it, I think, is a reappraisal of the whole basic relationship. The distinguished minority leader and I undertook that last year, I believe it was, or the year before last, when we asked two of our former colleagues, Senators Ribicoff and Pearson, to examine the whole situation and make recommendations. These recommendations have now been made and filed with the leadership and the Rules Committee. No doubt the Rules Committee will make recommendations to the full Senate and they will embrace trying to rationalize this whole thing.

In the meantime, we have to keep doing the country's business. So, for the time being, I suspect that what we shall do is keep on passing appropriations bills that are only marginally authorized under the rules of the Senate and statutes and keep passing appropriations bills and bypassing the appropriations bills and keep adopting budget resolutions which have the force and effect of appropriations and authorizations both. I shall sit here and be unhappy with it as the Senator from New Hampshire properly will be. I can pledge him that I recognize the problem he points out and I shall do my best to see that we approach it in a rational and reasonable way.

I commend him for his concern in this respect. I intend to consult with him privately on this matter in the next few days and we shall compare notes.

Mr. HUMPHREY. Mr. President, I thank the majority leader. I can only say that on top of an absolute inability to reach a budget resolution, this adds insult to injury, providing money for new projects that have no consideration in the hearing process, no authorization. I say to my colleagues that I know of several.

Mr. BAKER. Will the Senator yield for just a moment to permit me to announce that there will be no more RECORD votes tonight?

Mr. HUMPHREY. Mr. President, I only say finally that notwithstanding arguments about the emergencies which some of these appropriations address, notwithstanding that, there are quite a number of appropriations in this bill that are simply logrolling, simply favors to members of the Appropriations Committee. I find that not only unjustified but of a nature which does violence to this body and its procedures.

I thank the Chair.

Mr. LEVIN. The people of the State of Michigan have suffered tremendously over the past few years as a result of the deep economic recession

that has gripped the State. In particular, Michigan's unemployment has increased to levels unprecedented since the Great Depression—with 15 percent statewide and upwards of 25 percent in some areas. This has placed a severe financial strain on both the State and local governments as they try to meet this pressing human need.

But in addition to these financial requirements, the financial burdens of certain counties is being compounded by the increased costs associated with operation and maintenance of flood control works within their jurisdiction. Specifically, Bay County has faced significant cost increases related to dredging of the Kawkawlin River flood control project.

Bay County had performed dredging on the Kawkawlin related to flood control prior to 1971. As a precondition to the corps construction of the project, Bay County executed a local cooperation agreement fully intending to continue maintenance dredging.

In 1971, when the Kawkawlin project was completed, the corps estimated that the cost of maintenance dredging would be approximately $25,000 per dredge, which takes place every 4 or 5 years. However, because of inflation and the need to dredge an unanticipated and increased amount of material, the cost of dredging the Kawkawlin is now between $350,000 and $500,000.

In order to ease this burden on the county, Representative TRAXLER offered language in the House-passed fiscal year 1983 supplemental appropriations bill that would authorize the corps to assume the cost of operating and maintaining this flood control project.

I would like to ask the chairman of the Appropriations Committee, if during conference, he might give a sympathetic look at this authorization in the House-passed bill in light of the corps 1971 representations as to costs.

Mr. HATFIELD. I appreciate knowing the Senator's concern over the equities in this matter. I am, of course, concerned about the broader implications of this language, but I will certainly consider as sympathetically as possible the concerns you have raised when reviewing this language during the conference.

Mr. BRADLEY. Mr. President, I am pleased that the supplemental appropriations bill includes funding for the Center for Disease Control and the National Institute of Health for the continued research and study of acquired immune deficency syndrome (AIDS). AIDS has become a subject of deep concern in this Nation and for a very good reason: 80 percent of AIDS patients diagnosed in 1980 are now dead and as of May 2, 1983 there have been 520 deaths caused by the syndrome. New Jersey has reported 110 AIDS patients since July 1981, the third largest State for AIDS cases in the Nation, and more than half of these victims are no longer alive.

While the causal agent behind the AIDS epidemic is unknown, research has shown that individuals affected by AIDS develop opportunistic infections, an "attack" on the patient's immune system; in effect, the immune system "turns off." We do not know why, nor have we had any success in determining whether or how AIDS is transmitted. Although research has not, as of yet, been able to isolate the cause or cure of AIDS, what is known is that the mortality rate for AIDS patients is shockingly high. More deaths have been associated with AIDS than with toxic shock syndrome and Legionnaire's disease combined. Yet, Government expenditures for AIDS has been for less than for either of these other diseases.

Cost for immunological research are significant. Investigators have pointed out that the study of AIDS victims costs $1,000 per person and immunological experiments on animals are approximately $25,000 per animal per year. Although $2 million has already been allocated toward investigation of this disease by the CDC in 1982, these resources had to be shifted from other CDC activities and they pale when compared to the amounts expended on toxic shock and Legionnaire's disease. I do not feel that present resources are sufficient for the research and investigative work that lies ahead.

I urge my fellow Senators to support this appropriation which attempts to squarely combat this most serious threat to the public health of this Nation.

STATEMENT ON WALLOP AMENDMENT NO. 1388

● Mr. GRASSLEY. Mr. President, I support Senator WALLOP's fine initiative to modify the Surface Transportation Assistance Act of 1982. Senator WALLOP's bill, the Highway Use Tax Equalization Act of 1983, repeals the heavy vehicle use tax and replaces it with a 5-cent extra tax on diesel fuel. This "diesel differential" has been advocated by truckers because it taxes trucks which drive a greater number of miles more heavily. Clearly, those trucks which drive the greatest number of miles inflict the heaviest road damage. This measure also exempts passenger vehicles from the extra diesel tax if they weigh less than 10,000 pounds.

This bill responds to some of the concerns raised by members of the trucking community. Not only have truckers persuasively argued that a flat heavy vehicle use tax does not tax trucks with limited mileage fairly, they have also argued that the heavy vehicle use tax creates an added paperwork burden for them. A tax on the pump relieves truckers of this extra paperwork responsibility. Also, it eliminates the piggyback of additional State taxes which are threatening to raise trucking costs to prohibitive levels.

The simplicity of administration and the greater equity of this measure are features which deserve our serious consideration. I am convinced that this new bill will improve this unpopular levy and I am proud to join Senator WALLOP in cosponsoring this measure.●

● Mr. HUMPHREY. I would like to discuss for a moment with the Senator from South Dakota, who is the chairman of the Treasury, Postal Service Subcommittee, a situation which has developed in my State of New Hampshire and which is within the jurisdiction of the subcommittee.

My intent today was to offer an amendment to the supplemental appropriations bill which would issue continued and sufficient customs service for Lebanon Municipal Airport. I understand, however, that the press of committee business combined with severe time constraints make consideration of any new business a difficult proposition. I will then respect the wishes of the committee and submit my amendment at a more appropriate time.

I will, however, take the opportunity to state why customs service should be provided to Lebanon Airport.

In January of 1982, Commissioner von Raab, U.S. Customs Service, wrote me to announce that customs service would be provided to Lebanon Municipal Airport. In his letter, the Commissioner stated:

> I am pleased to advise you that I have decided to provide service to Lebanon from Burlington, Vt. customs office with the use of a part-time—700 hour, when-actually-employed employee.

Unfortunately, this commitment was never fulfilled. Instead, service was provided through the expensive and inconvenient method of oncall service from Derby Line, Vt.

The cost to the Federal Government of this service is unwarranted. Officials of Lebanon Municipal Airport as well as the major beneficiaries of this service are willing to pay the entire cost of providing customs inspection. Bureau of Customs Management Circular 9-0:I:PA written in June of 1973 describes a method of providing service by which the salary and expenses of the customs officer is reimbursed to the Government through a user fee system. The concept described therein is known as a customs station and this is what should be employed at Lebanon Airport.

Finally and most importantly, some of our Federal agencies seem to have forgotten that we are a federal system of government composed of 50 distinct and equal States. I need not remind Senator ABDNOR that South Dakota and New Hampshire are the only two

States in this federal system which currently have no international landing rights or international status airport within their boundaries. This causes businesses with international markets not to locate in our States thus impeding economic development. I take great exception to this discriminatory policy and urge my colleagues to support customs service for New Hampshire.

Mr. ABDNOR. I appreciate the Senator's decision not to offer his amendment at this time. He raises a very important point regarding the need for customs' presence in Lebanon. I want to assure him that the committee shares his concern and will certainly consider steps to provide for continued service in Lebanon during consideration of the fiscal year 1984 bill.●

SIX MILE CREEK

● Mr. BUMPERS. Mr. President, when the Senate began consideration of H.R. 3069, the 1983 supplemental appropriations bill, I intended to offer an amendment similar to the one the House adopted but which was dropped in committee on this side. The jobs bill, Public Law 98-8, included $100 million for the Soil Conservation Service for its watershed and flood prevention operations. The bill states that the funds are to be used "in installing works of improvement and rehabilitation of existing works * * *" as well as for other purposes.

In the justification of the President's request for a 1984 supplemental appropriations was language saying none of these funds were to be used for the rehabilitation of existing projects. This language is, of course, in direct conflict with the language of Public Law 98-8.

This amendment the House adopted on the supplemental appropriations bill directed the Soil Conservation Service to use $17 million of the $100 million for installing works of improvement and rehabilitation of existing works. Of that $17 million, $2 million was to be available for rehabilitation of Six-Mile Creek in Arkansas. This project was constructed between 1954 and 1957 as part of a pilot watershed program which included 54 projects around the country. In the Six-Mile Creek watershed, approximately 25 dams were built by the Soil Conservation Service for flood control, erosion prevention, and related purposes. Many of these dams are in desperate need of repairs, and at the time the pilot program was initiated, local sponsors did not have authority to levy taxes for maintenance activities. The funds included in the jobs bill for the Soil Conservation Service were to help make these needed repairs, and the House language on the supplemental made this clear.

The reason I am not offering an amendment to this bill on Six-Mile Creek similar to the House amendment is that Soil Conservation Service officials have assured me that Six-Mile Creek is that agency's top priority for repairs, and that if funds are made available, the dams on Six-Mile Creek will be repaired.

Since the bill we are considering today includes language directing the Soil Conservation Service to spend $17 million for rehabilitation of these projects, although the Senate amendment deletes earmarking for Six-Mile Creek. I am relying on the assurances of the Soil Conservation Service that this project will be repaired. I want to go on record that these assurances were made, that I accepted them in good faith, and I withheld offering an amendment earmarking $2 million for Six-Mile Creek in reliance upon SCS's assurances.●

● Mr. PRYOR. Mr. President, I want to express my strong support of the effort to restore the Six-Mile Creek watershed project in Arkansas to a safe and functional level. This project, first authorized under Public Law 83-156, was one of 54 projects selected for a pilot watershed program in the 1950's. The plans for this program were designed to demonstrate the practicability of complete protection as a means of conserving soil and water, of reducing floodwater and sediment damages, and of alleviating numerous other upstream land and water problems.

Work on this project in Logan and Franklin Counties was begun in 1954 and completed in 1957, and consisted of 24 earth-filled flood control dams and 15 miles on channel improvements. Mr. President, 26 years later we find that this project, so long a regional asset, may now pose a public hazard because of, among other things, a faulty design. No local sponsor group had ever been formed until recently because none was required on projects of this nature in the 1950's, and therefore local maintenance was strictly voluntary.

It now appears that the engineer's estimates on the necessary repairs will total some $500,000. Mr. President, this is a very small sum in today's dollars to keep a very important Federal public works project from being dismantled. The House has taken note of this demonstrated need and earmarked the project as one requiring attention. Because I am satisfied that the Committee and the Soil Conservation Service share my support for the project and that funds from this bill will be allocated as necessary to restore this project to a safe operational level, no attempt will be made to insist on inclusion of specific language in the Senate version of this bill. I do, however, fully expect that the intentions expressed regarding funding of the project by the Soil Conservation Service will be fulfilled.●

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, since no other amendments are in order except pay amendments, and they are not coming up until tomorrow, I ask unanimous consent that there be a brief period for the transaction of routine morning business to extend not past the hour of 7:15 p.m., in which Senators may speak for not more than 5 minutes each.

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

TRIBUTE TO FORMER SENATOR MILTON YOUNG

Mr. THURMOND. Mr. President, it was with great sadness that I learned of the recent death of my former colleague, Senator Milton Young of North Dakota. To his lovely wife, Pat, and other family members, my wife Nancy and I extend our deepest sympathy.

I am certain that Milton Young will be remembered as one of the most effective Senators in the history of the U.S. Senate. His long and impressive career of public service began in 1924 when he was first elected to various local offices in his small hometown of Berlin, N. Dak. From there, Milton Young went on to become a representative in the North Dakota House and was subsequently elected to the State senate in 1934.

After serving in the North Dakota State Senate as majority leader and president pro tempore, Mr. Young was appointed to the U.S. Senate on March 14, 1945, and was later elected to that post in a special election in 1946. He was reelected in 1950, 1956, 1962, 1968, and 1974, as he completed 34 years of consecutive service in the Senate, a record that no other Republican Senator in history has ever matched.

In addition to that amazing record, Senator Young was never defeated for reelection in his six decades of public service, and in 1968 he received the highest percentage of votes of any Republican Senator having an opponent. The good people of North Dakota did well to select this outstanding man to represent them, and, indeed, he represented them well.

Throughout his tenure in the Senate, Senator Young was one of the most ardent supporters in this country of the small, family farm. In fact, he was often referred to as "Mister Wheat" for his deep and sustaining concern for our country's agricultural needs. Whether in his capacity as ranking member of the Appropriations Committee or in his position on the Agriculture Committee, the family farmer was his most important constitutent.

While many Senators probably remember Milton Young for his work on

behalf of farmers, I also remember him for his commitment to a strong national defense. When considering defense issues, Senator Young always handled himself in a bipartisan fashion, and he believed that America's precious freedoms deserved to be protected. I was and always will be grateful for his strong leadership in this vital area.

Although Senator Young could be steadfast on important issues, he always conducted himself as a kind and considerate gentleman. As secretary of the Republican Conference Committee, from 1946-1971, his concise and evenhanded approach to problems was respected and appreciated. In short, he was a dedicated and able Senator and a good friend who always displayed a friendly smile and an unassuming grace.

Near the close of his Senate career in 1980, Senator Milton Young was selected by the Senate to be President pro tempore for 1 day. My colleagues are to be commended for their nonpartisan spirit in extending this special tribute for the many exemplary contributions and accomplishments of Senator Young.

I am certain that I share the sentiments of many other Senators in saying that Milton Young was a great American, a true patriot, and a statesman who represented what he believed to be best for North Dakota and the United States.

LITHUANIAN DOMINATION BY U.S.S.R.

Mr. PRESSLER. Mr. President, June 15, 1983, marks the 43d anniversary of the forced incorporation of the Baltic States of Estonia, Latvia, and Lithuania into the Soviet Union. I would like to offer a few remarks in honor of the courageous people of Lithuania.

On August 23, 1939, Hitler and Stalin, the leaders of Nazi Germany and the Soviet Union concluded a nonaggression treaty. On June 15, 1940, the results of this infamous Molotov-Ribbentrop Pact were seen as the Soviet Union forcefully invaded the Baltic States of Estonia, Latvia, and Lithuania with 300,000 soldiers supported by planes and armored forces. A mass deportation of hundreds of thousands of Lithuanians to Siberian concentration camps soon followed. Although the people of Lithuania and the other Baltic States have since been living under Soviet rule, they have continued to maintain their nationalistic spirit despite religious persecution and repression of their cultural, political, and language preferences.

The United States rightfully has never recognized the Soviet Union's violent and illegal annexation of Lithuania but continues to recognize the diplomatic corps established by the independent Lithuania. We have repeatedly seen in the many years since 1940 that our nonrecognition policy is a continuing symbol to the people of the Baltic States of hope for the future. It is a constant reminder that we have not forgotten them.

The Lithuanian-American Community of the U.S.A. urges the United States to insist that the following policies be adopted by the Soviet Union:

First. A lowering of the excessive tariffs imposed on parcels to relatives and friends residing in the Baltic States.

Second. An increase in the duration of the current 5-day tourist visa to a more reasonable limit.

Third. Elimination of unreasonable travel restrictions on tourists to Lithuania.

Fourth. Provision for Lithuanians to reunite with their families in other countries as provided by the Charter of the United Nations, which was signed by the U.S.S.R.

In many nations, suppression of human rights is prevalent but nowhere is it more total than in the Baltic States of Estonia, Latvia, and Lithuania. I salute the people of Lithuania and their descendants here in America, all of whom are determined to keep the spirit of freedom alive in their hearts and minds. The American people are aware of their struggles and yearnings for freedom, and we understand and sympathize.

DETROIT REPERTORY THEATRE SILVER SEASON

Mr. LEVIN. Mr. President, later this month the Detroit Repertory Theatre will conclude its silver anniversary season. I would like to take this time to note its achievements. During the past 25 years this company has brought quality theatrical productions, reflecting the concerns and character of the people of Michigan, to my State.

The Detroit Repertory Theatre, originally called the Millan Theatre Company, was founded in 1957 as a touring company of professional actors performing original musical dramas for children. In its first 10 years the company toured extensively, serving not only Michigan, but Indiana, Ohio, and Pennsylvania as well. It built a national reputation for children's drama of superior quality and great originality.

As the needs of the city of Detroit changed in the late 1960's, the company altered its goals, choosing to concentrate on adult theatre, and producing its first play, Moliere's Tartuffe, in 1968. The next 4 years were difficult and discouraging for the company; dispite the quality of the productions, audiences and funding were often meager. The staff developed innovative programs featuring jazz concerts and showings of films to ease these financial difficulties.

In 1972 the repertory received its first Government grant from the National Endowment for the Arts, and began a continuing trend of growth and success, of expansion and renovation. In spite of many obstacles, including a disasterous fire in 1979, the repertory has become nationally known for consistent excellence and creativity in theatre.

In addition to stage productions, the repertory sponsors free acting workshops, and the Michigan playwrights program, which enables Michigan writers to have their works performed by a professional company, and brought to the attention of theater goers throughout the region. Another successful public service sponsored by the repertory is the cultural fellowship program, designed to provide opportunities for handicapped and disadvantaged individuals to attend plays on a regular basis.

The inspiration, vision, and perserverance of artistic director Bruce E. Millan and Detroit Repertory's staff, actors, directors and board have made it a success. Michigan is proud to be the home to such a fine organization and I am proud to salute this outstanding theatrical company in this, their silver season.

EX-CIA HEAD NOW WORKS FOR NUCLEAR FREEZE AND WHY

Mr. PROXMIRE. Mr. President, no one can deny that the nuclear freeze movement has impressive popular support. Last year, American citizens had a chance to vote on the nuclear freeze in nine different referenda. Eight times they supported it, and usually, as in my State of Wisconsin, they supported it overwhelmingly. Thanks to this great popular support, a nuclear freeze resolution has passed the House of Representatives, and it passed decisively.

As I indicated yesterday, the political potency of the freeze was vividly demonstrated in the Wisconsin Democratic convention straw vote when Senator ALAN CRANSTON, armed almost exclusively with his identification as Mr. Nuclear Freeze, defeated an overwhelming Wisconsin favorite, former Vice President Walter Mondale, last Saturday.

In view of the repeatedly demonstrated popular support for this nuclear freeze, is it not a cinch that our country will eventually adopt it? After all, we are a democracy. We are organized to provide rule by the people. So why is not the freeze inevitable? Here is why:

With all this potency, the nuclear freeze movement faces very powerful adversaries. The two newspapers that probably have the greatest clout in

Washington, the New York Times and the Washington Post, both oppose it. The President of the United States and his administration have tried their best at every turn to derail it. A big proportion of the most widely read and most influential newspaper columnists oppose it, and are trying their effective best to give it an extremist, pie-in-the-sky, idealistic caste. And of course the massive military-industrial complex, with its array of admirals, generals, corporation presidents, labor union leaders, and university nuclear-weapons researchers, has been performing right on the cue about which President Eisenhower so wisely warned us in his farewell address.

Is the military-industrial complex really this concerned now? Yes, indeed, and here is why:

New York Times reporter Charles Mohr reported the other day that without a freeze, even if we succeeded in working out a nuclear arms agreement with the Soviet Union, we would still spend an additional $50 billion a year on strategic weapons for each of the next 5 years.

Now, $50 billion per year is not exactly peanuts. That will buy a whale of a lot of jobs. It can make the difference between prosperity and deep, painful recession in a number of States and congressional districts. A nuclear freeze would end all this.

So the freeze had obvious and powerful popular support in this democracy. But it could fail because it does not have the political movers and shakers: the people in and out of Government with the power, and the economic interests who specialize in focusing on the power and winning.

Still, it has some impressive and highly knowledgeable supporters. Many of the retired military officials who no longer feel the tug of a Presidential leash—people such as Admiral Rickover and Admiral Gaylor, for example—have spoken out for stopping the nuclear arms race.

In the judgment of many perhaps the most surprising and the most effective supporter of the freeze is the former Chief of the Central Intelligence Agency, William Colby. Colby is no starry-eyed, unrealistic idealist. He is a tough, anti-Communist, experienced, thoroughly professional cold warrior. He thoroughly understands the cruel, hard, selfish, and opportunistic way in which the Soviet Union operates. Above all, he knows the limits and the possibilities of our intelligence, the extent to which it can inform the President and our military and civilian leaders about any Soviet strategic buildup.

Where does William Colby stand on the nuclear freeze? He is not just for it, maybe, or perhaps with modifications. He is for it—all out and enthusiastically. In fact, he is spending much of this time promoting the cause of the nuclear freeze, rallying support around the country on it.

Would we take too big a gamble with a nuclear freeze because the Soviet Union would cheat, and then would our intelligence be able to detect the cheating and permit us to know about it in detail and on time? Well, what does Colby say? He says the Russians could not violate a freeze in a way that would constitute a serious threat to our security without our timely knowledge.

When Mr. Colby testified to that effect before the Defense Appropriations Subcommittee a month ago, none of the witnesses who appeared could refute him, although many of them disagreed, as did some members of the committee on the freeze itself. Intelligence verification lies at the heart of a successful freeze. Colby's assurance that we can depend on it is a vital reassurance.

Mr. President, the New York Times published an article in its Tuesday, June 14, issue about Mr. Colby's support of the nuclear freeze, and I ask unanimous consent that that article be printed in the RECORD.

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

[From the New York Times, June 14, 1983]

EX-CIA HEAD NOW WORKS FOR A NUCLEAR FREEZE

(By Phil Gailey)

WASHINGTON, June 13.—Eight years ago, while this city was undergoing its post-Watergate cleansing, William E. Colby did something unusual for a director of Central Intelligence.

He disclosed the agency's "family jewels," as its dark secrets and illegal activities were called by insiders, before a Senate committee. At the same time he turned over to the Justice Department the findings of an internal inquiry that led to the prosecution of Richard Helms, one of his predecessors, for lying to Congress about C.I.A. activities in Chile.

The agency's old guard reacted with harsh accusations and innuendoes. Some, including James J. Angleton, who had been ousted as head of counterintelligence by Mr. Colby, suggested at the time that he might be a Soviet mole; others accused Mr. Colby of paralyzing the agency's ability to conduct covert operations by kneeling before the Senate Select Committee on Intelligence as if it were, in the words of one former C.I.A. director, "a mourner's bench." President Ford asked for Mr. Colby's resignation in late 1975.

These days Mr. Colby, who practices international law here, is again playing a surprising role for a former director of Central Intelligence. He has joined the public debate on nuclear arms control on the side of the Catholic bishops and the nuclear freeze movement, and this has brought a new round of criticism of Mr. Colby by some of his old C.I.A. colleagues who never forgave him for opening the agency's black bag to the world.

KNOWN AS A "SOLDIER-PRIEST"

"My position is a little incongruous for a former C.I.A. man, and I understand that," he said, adding that, contrary to what some are saying, neither religion nor guilt brought him to his present view.

Still, friends and critics alike, including two former directors of Central Intelligence, suggest privately that Mr. Colby, known around the C.I.A. as the "soldier-priest," may be motivated in part by his deep commitment to his Roman Catholic faith and a sense of guilt from some of the most painful periods of his life.

After he was appointed C.I.A. Director in 1973, antiwar groups tacked up posters in Washington labeling Mr. Colby a "murderer" and war criminal for his role in directing Operation Phoenix, an effort to identify and recruit or imprison leaders of the Vietcong in South Vietnam. Some 20,000 Vietcong "suspects" were killed during the operation. Mr. Colby told a House committee that there had been some "excesses" despite his rules against illegal killings, but he insisted that the program had, on the whole, been successful.

Still, Mr. Colby was shaken by suggestions that he had condoned political assassinations. "How does it feel to be married to a war criminal?" he asked his wife when the posters went up.

His public tribulations were matched by his personal grief. In 1971 his eldest daughter died in Washington after a long illness, and friends say Mr. Colby, who was stationed in Vietnam during the years her health was deteriorating, felt a sense of guilt for not having spent more time with her.

PRACTICAL AND MORAL ASPECTS

Mr. Colby, whose poker player's face rarely betrays his emotions or private thoughts, nodded slightly as a reporter repeated this speculation about why he went from the cold to the freeze.

"If I were taking the other side, nobody would bat an eyebrow about it," he said. "I felt this way long before the bishops' letter came out and, in fact, I helped to some degree in explaining the issue to Catholic groups. I figure the priests can take care of the moral aspects and I'll talk about the practical aspects."

Mr. Colby, who is waging his personal freeze campaign on the speaking circuit and in newspaper columns, contends that his antinuclear activities are "a logical extension of what I was doing in the intelligence business."

He goes on: "At the C.I.A. it became obvious to me that the real function of intelligence is not to win battles but to help with the peace, to avoid the kind of destabilizing surprises that can occur. It is clear to me that the arms race has us on the verge of another one of these terrible destabilizing steps that is moving us toward a hair-trigger world with all this talk of launch under attack. My God, we're talking about the fate of the world."

If Mr. Colby's former colleagues in the intelligence community are perplexed by the latest public role of this man who calls himself "an unreconstructed cold warrior," so are some liberals who have welcomed him into the ranks of the nuclear freeze movement despite his support for the Reagan Administration's policies in El Salvador and his unwavering defense of American involvement in Vietnam.

James R. Schlesinger, a former C.I.A. director, said that the freeze movement, "if anything but a political gesture, could be detrimental to the overall military balance." He said he did not doubt his former colleague's sincerity, but, like some other mem-

bers of the national security community, said he felt that Mr. Colby's words were taking a turn toward stridency.

Mr. Schlesinger, Secretary of Defense in the Nixon and Ford Administrations, said he read with dismay Mr. Colby's recent remarks to an antinuclear group at Georgetown University. Mr. Colby told that audience: "I think it's time for people to take this matter away from the priesthood that has gotten us into this mess and to simply insist that we stop building these things."

In an interview, Mr. Schlesinger said: "I get restless, and I suspect others do too, over firebrand comments about a supposed nuclear priesthood. Bill knows better than that. Discussions regarding nuclear strategy have been quite open, more so than in the intelligence matters, and Bill would properly resent casual remarks about an intelligence priesthood."

Whatever his motivation, Mr. Colby has not come lately to the arms control issue. He did some personal lobbying on Capitol Hill for the second treaty on limiting strategic arms that became a casualty of the Soviet intervention in Afghanistan, trying unsuccessfully to reassure Senator John Glenn, Democrat of Ohio, on his concerns about verification. Looking back, Mr. Colby says Senator Glenn's position had "a very large impact on the failure of Salt II." More recently, Mr. Colby has spoken out against the Reagan Administration's MX missile program.

DESCRIBED AS "ANTICHARISMATIC"

At the age of 63, Mr. Colby still fits his description of the perfect clandestine operative, "the traditional gray man, so inconspicuous that he can never catch the waiter's eye in a restaurant." Mr. Colby, a wiry man with a stern face and pale blue eyes framed by translucent pink glasses, has a reserve and quiet that are difficult to reconcile with the stories of his courage in World War II. His personality has been described as "anticharismatic."

Despite his unassuming physical profile, Mr. Colby has not been a man easily overlooked since he went before the Senate Select Committee on Intelligence in 1975 to confess the misdeeds of his agency.

Mr. Helms, the former C.I.A. director who gave Mr. Colby some key career breaks at the agency, has never forgiven his old colleague for handing over to the Justice Department evidence that forced him to enter into a plea bargain arrangement to avoid a perjury charge. Mr. Helms pleaded nolo contendere to a misdemeanor charge of testifying inaccurately and incompletely on C.I.A. activities in Chile.

Mr. Helms, who says he is proud to be known as the man who kept the secrets, said in a recent interview that he did not want "to reopen old wounds" by expressing an opinion on Mr. Colby's role in the arms control movement. Mr. Helms is a member of the Presidential commission that recently recommended deployment of the MX missile, and that, he said, was the limit of his involvement in the nuclear weapons issue.

"I have preferred to remain independent of politics," Mr. Helms said, letting the contrast speak for itself. "I haven't done a lot of public speaking. When it comes to the intricacies of weapons systems, I believe someone in my position can be humble about his knowledge."

LEVITICUS SUCCESSFUL

Mr. HOLLINGS. Mr. President, as the former chairman, and now ranking minority member of the Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Subcommittee, I have had the opportunity to closely observe our law enforcement efforts. As a nation, we have deliberately decided to distribute law enforcement between Federal, State, and local agencies. As any informed observer knows, this has often led to ultimate forms of creative tension as the various levels pursue the criminals who are unaffected by bureaucratic structures and restrictions. In our highly mobile and sophisticated society, our law enforcement agencies need to cooperate more than ever in order to effectively pursue their common enemy.

Our subcommittee long ago realized the need for greater cooperation, particularly the sharing of intelligence between State and local police units. The junior Senator from Arizona (Mr. DECONCINI) has been the chief spokesman, but the subcommittee, to a man, Democrat and Republican alike, has consistently supported the grants to the joint State and local law enforcement agencies. We have done this in spite of the constant opposition of the Department of Justice.

There are now seven multi-State agencies, including the Regional Organized Crime Intelligence Center which serves the Southeast; the Western State Information Network; the Rocky Mountain Information Network; the Mid-Atlantic-Great Lakes Organized Crime Law Enforcement Network; the New England State Police Administrative Council; the Mid-States Organized Crime Information Center; and Leviticus, a special operation that combats fraud in the coal industry in seven States. These networks were mainly formed to share information on drug trafficking but over the years they have expanded into other areas of law enforcement.

I have recently communicated with the members of the Regional Organized Crime Intelligence Center and am assembling information to report on the cooperation between the local police and our Federal law enforcement agencies. My initial reaction is that we are not getting the cooperation we need and that our local agencies depend on the ROCIC for the intelligence and other support they vitally require.

Mr. President, this week's edition of Newsweek contains an article on the success of the Leviticus operation that I mentioned earlier. I will ask unanimous consent that the article be printed at the conclusion of my remarks.

Leviticus, involving the States of Alabama, Georgia, Indiana, Kentucky, New York, Pennsylvania, and Virginia, is headed by the highly respected assistant district attorney of New York County, Matthew T. Crosson. Leviticus is filling a void in the enforcement of our tax laws that the Department of Justice ignored. With an investment of $2.3 million in grants from the appropriations our subcommittee supplied, Leviticus has uncovered $168 million in fraudulent investments. This article reinforces my strong interest in the multi-State intelligence networks and I am sure will give a lift to all the members of our subcommittee.

I ask unanimous consent that the article to which I referred be printed in the RECORD.

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

THE EAGLE EYE OF LEVITICUS

Thou shalt not defraud thy neighbor.—Lev. 19:13.

Not long after the federal government sweetened the tax laws to encourage investment in the coal industry, bunko artists took to the hills of Appalachia. They hijacked heavy equipment, sold bogus mineral leases and, most creatively, peddled phony tax shelters. For a time these coal-country criminals had the upper hand because they operated across boundaries that confounded local law-enforcement agencies: a typical scam would move from the hollows of Kentucky to the putting greens of the sun belt to the financial canyons of Manhattan. When the Department of Justice showed less interest in attacking these problems than some local officials thought appropriate, six coal-producing states and New York formed their own strike force. Three years and $2.3 million in federal grants later, the cooperating state prosecutors has charged 209 people, mostly for white-collar crimes. Last week they celebrated their greatest success to date when a state judge in New York sentenced five men for a tax-shelter fraud that may have cost the United States up to $20 million in taxes.

Fines: The states call their project Leviticus, after the third book of the Old Testament. Their computer-assisted experts in white-collar crime have uncovered $168 million in fraudulent investments on which the Internal Revenue Service may seek back taxes and fines. "We have proven that state and local law enforcement can manage collective investigations across state lines," says Matthew Crosson, the project's coordinator and deputy chief of the Manhattan district attorney's frauds bureau.

The men sentenced last week presented one of the most complicated challenges Leviticus has yet faced. Their scheme depended on bending the tax-shelter law, which permits investors to write off losses from their taxes; the catch is that the enterprises involved must stand a sporting chance of succeeding. Financiers Richard Firestone and Milton Dorison—later helped by two lawyers and two salesmen—sold $8.7 million worth of shares in a coal-mining venture but then allocated just 5 percent to actual development for mining operations. The key to the scheme was a presumption that no one would complain: the investors would get their lucrative tax write-offs, the conspirators would split the loot and the Treasury would never know what it missed.

The conspirators' mistake was trying to take advantage of a New York financial consultant named Eugene Foley who ran the Small Business Administration under John Kennedy. At Firestone's request, Foley prepared an opinion letter concerning Firestone's chances of obtaining government

loans for a coal mine. His recommendation was included in Firestone's tax-shelter offering without permission. And when the angry Foley read a news account of the Leviticus project, he brought his suspicions to the Manhattan D.A.'s office.

Investigators traced back through the chain of sales and word-of-mouth recommendations to the venture's chief public official, general partner Peter Gettinger, and then to Firestone and Dorison. A team of New York detectives and accountants paid by Leviticus sifted through mounds of subpoenaed documents. Ultimately the hunt led to a network of offshore banks that, according to the prosecution, the conspirators passed their money through—both to hide it and, at other times, to "create the appearance of funds without there being funds," according to Crosson.

Appeal: The case went to a Manhattan jury on April 15—hardly a day to win sympathy from taxpayers. Defense lawyers stressed that the shelter and its promoters were well within the letter of the law, but the jury found Firestone, Dorison and Gettinger guilty on 25 counts of conspiracy, fraud, larceny and other business violations. Three other defendants were convicted on one or more of those charges. Firestone and Dorison drew the harshest sentences—including fines of $2 million each—but all six men plan to appeal, arguing that they should not have been tried together and that the case was too complicated to be heard by a jury.

Investors in the scheme, meanwhile, aren't sure how much they have lost. John Mienik of Manhasset, N.Y., invested $50,000 in the shelter—which gave him a $100,000 savings on his 1979 taxes. Now, after recalculating his write-offs, paying an interest charge and deducting that, Mienik appears to have lost $26,000. But he thinks he may have made some money with the extra $100,000 he had available to invest for two years. Still, Mienik now gives his tax-shelter work to a Wall Street brokerage less likely to fall prey to the silky blandishments of con men—or run afoul of Operation Leviticus.

BALTIC FREEDOM DAY

Mr. HOLLINGS. Mr. President, I was pleased to sponsor the resolution to proclaim June 14 as Baltic Freedom Day, in mournful observance of the criminal and inhuman transgressions committed against the Baltic peoples by the Soviet Union during and after World War II.

From 1940 to 1951 hundreds of thousands of Lithuanians, Latvians, and Estonians lost their lives and millions more lost their freedom when Stalin's regime overrun the Baltic States and began its reign of terror.

The tragic fate of the Baltic peoples at the hands of their Soviet oppressors should serve as a reminder that our vigilance against tyranny and totalitarianism must never cease.

It should serve as a stark reminder of what we stand for as a nation, of what makes us different in our competition with the Soviets, and why pursing a human rights policy is so important in our fight against repression, whether it be on the left or the right.

If we as Americans stand for anything, it is that all of us—all the world's peoples—should enjoy at least the basic human rights of liberty and freedom from violence and oppression. The grievous suffering and slaughter of the Lithuanians, Latvians, and Estonians is a tragic episode in history. It is a tragedy that continues today. Let this day serve as notice that it is a tragedy we shall never forget.

PLIGHT OF THE ETHIOPIAN JEWS

Mr. PROXMIRE. Mr. President, since the 15th century, the black Jews of Ethiopia have been the target of continuing harassment and torture.

Ethiopian leader after leader gave the black Jews a choice: Convert to Christianity or die.

Sources as diverse as the New York Times and Christian Century have reported that the pressures faced by these Jews have not eased with time. Jews in Ethiopia are the victims of constant and demoralizing attacks. They are sold by their countrymen as slaves, imprisoned for unfounded charges of conspiracy, and raped and beaten. The Ethiopian Government regularly confiscates the lands of the Ethiopian Jews and then forces these landless people to serve as sharecroppers who must turn over 75 percent of their crops to the state. It is no wonder that starvation prevails.

Ethiopian Jews are scattered among 490 small, poverty-stricken and remote villages—villages without any government schools and without doctors and hospitals.

Centuries ago the Ethiopian Jews were a flourishing community in excess of 500,000, and as late as 1900, 100,000 Jews still lived in Ethiopia. Now only 28,000 Jews remain in their Ethiopian homeland, and that number is rapidly declining. The Ethiopian Government seems intent on fulfilling its cruel goal, intent on inflicting more pain on these destitute people.

Despite documented evidence that the black Jews have lived in Ethiopia since the fourth century, most other Ethiopians refuse to acknowledge that these Jews are their countrymen. This is reflected even in the derogatory name the Ethiopians call these Jews—Falashas—which means "strangers" or "intruders" in their native tongue.

The Ethiopian Jews have asked for help from the rest of the world. Unable to emigrate, these Jews are living in a hostile land where they are brutally oppressed.

The U.S. Government and the American people cannot sit by idly while the Ethiopian Jews suffer and are killed.

The first step the United States must take to help the Ethiopian Jews is to ratify the Genocide Convention. Although not a panacea, the International Genocide Treaty, which has already been ratified by over 90 countries, proclaims genocide an international crime and protects mankind's most fundamental right—the right to live.

It is a disgrace that the United States remains the only major nation which has not ratified this treaty. While Americans profess great respect for human rights, when the American Government attempts to defend the rights of oppressed minorities like the Jews in Ethiopia, onlookers and oppressors alike are quick to notice the hypocrisy of our position: We are leading a battle against genocide yet have failed to ratify a vital genocide treaty. U.S. efforts to promote better human rights and curb ever-present genocide cannot and will not be credible until we ratify the convention.

I urge my colleagues to support this document and act on it without delay.

CLOSING OF AGRICULTURAL COOPERATIVE SERVICE FIELD OFFICE IN NORTHERN NEW ENGLAND

Mr. MITCHELL. Mr. President, on May 7, I attended the dedication of a potato growers cooperative storage and packing facility in Fort Kent, Maine. The opening of the Fort Kent facility represents a significant step forward for potato growers in the region for it demonstrates that they can work together to insure both their short- and long-term prosperity. This facility also is a concrete example of the many contributions which the northern New England field office of the Agricultural Cooperative Service has made to the economic well-being of farmers in Maine, Vermont, and New Hampshire.

Since 1980, Mr. Gerald Ely, the cooperative specialist in the field office, has provided valuable assistance to New England farmers in the areas of marketing research, management, and director training, quality control, and financial, and legal aspects of cooperative activity. In Maine, he has helped organize two potato cooperatives which are projected to generate $2 million per year as a result of his efforts to improve quality control and marketing initiatives. He has also worked with the forest product marketing and management cooperative of Dover-Foxcroft and two fisheries organizations in Vinalhaven and Boothbay. Mr. Ely has worked closely with the Merrimack Growers Cooperative in New Hampshire and the Vermont Northern Growers Cooperative in marketing of fresh produce through three seasonal retail vegetable outlets. This work, in short, has helped to establish New England agricultural cooperatives as one of the few vehicles which will enable small family farmers to survive.

Because of these many contributions made by the New England Agricultural Cooperative Service field office, I was distressed to learn that the Department of Agriculture is closing this office. I have received many letters and calls seeking to determine if the office can be saved. I joined with my colleagues from Maine, Representatives SNOWE and MCKERNAN, and with Senators HUMPHREY and LEAHY and Representatives D'AMOURS and JEFFORDS from New Hampshire and Vermont in sending a letter to Secretary Block to see if the office could be maintained. The Maine commissioner of agriculture, Mr. Stewart Smith, has offered to provide office support to help defray the cost of maintaining the field office in Augusta. All of this is to no avail; the USDA has continued to move to close this office.

The rationale for the USDA action is, quite frankly, not convincing. The New England field office has received and granted a significant number of technical assistance requests involving long-term, comprehensive assistance to farmers seeking to establish cooperatives. The New England office fares quite well in comparison to the other offices. In the period from 1980 to the end of 1982, the New England office handled 10 requests for technical assistance from farmer groups. In this same period the Kentucky office has received 10, the North Carolina office received 12, and the California and Arkansas offices received 9 requests each. Last year, a new office was opened in Hawaii. This year, the USDA has proposed to close the California and Arkansas offices along with the New England office leaving open the new office in Hawaii and the Kentucky and North Carolina offices. Clearly, the New England office has generated comparable workload responsibilities as have the other field offices. Furthermore, the costs of operating the New England office is not great in relationship to the benefits which come with maintenance of this office. To keep it open the USDA would need to allocate only about $55,000 per year.

The advantage of having on hand for easy consultation both in person or by phone a qualified cooperative specialist like Mr. Ely is tremendous compared with the requirement of having to contact Washington, D.C., as proposed by the Agricultural Cooperative Service. By removing this office, there will be no specialist in New England available to assist small farmers. And, no matter how anxious the ACS office in Washington is willing to help, it will not be able to devote the same time and individual attention to the problems of New England farmers as can a specialist on hand in the region. Furthermore, Washington is far away both geographically and attitudinally from northern New England.

In my view, the closing of this office is extremely shortsighted. It is a great disappointment to me that the Agriculture Appropriations Subcommittee would not reverse the administration decision to close this office. In a bill of over $15.6 billion, $55,000 cannot be found to support an office which would help the small family farms of northern New England. Such budget cutting is truly penny-wise and pound-foolish. By hurting the small farmer, it hurts the economies of the northern New England States. I will, however, continue in my efforts to find funds to reopen the cooperative office in New England.

WEIRTON ESOP

Mr. LONG. Mr. President, last night, I had the great honor of addressing the annual business meeting of the Weirton, W. Va., Chamber of Commerce. The community of Weirton is in the midst of negotiations with National Steel to utilize an employee stock ownership plan (ESOP) to acquire the Weirton division.

Due to my support of ESOP's, the chamber of commerce asked that I address their membership.

This community has shown great courage and, I think, great foresight in moving forward with their proposal to acquire that facility in Weirton, and I know that my colleagues join me in wishing them the best of luck in their endeavor.

Mr. President, I ask unanimous consent that the text of my remarks be entered into the RECORD.

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

REMARKS OF SENATOR RUSSELL B. LONG TO THE WEIRTON CHAMBER OF COMMERCE, JUNE 14, 1983

You have come a long way since that bleak day back in March of last year when National Steel indicated their intention to cease operations here in Weirton. At that time, the possibility of closing the Weirton facility was very real. And the chances of a successful employee buyout must have seemed extremely remote.

But now—fifteen months later—you are on the verge of success. You are on the threshold of creating something that will not only give new life to the Weirton community but will also serve as a beacon of hope to people in distressed communities all across this nation.

You will be doing more than saving jobs—although that's important. And you will be doing more than keeping your community alive—though that too is a measure of the magnitude of your success.

If you are successful—and I think you will be—your example can prove to others all across this country how a community can pull together to survive and to prosper.

Before leaving Washington this afternoon, I was looking through my files at several photographs taken here in Weirton over these last fifteen months.

One photo from your July 4th parade showed the winning float—a crepe paper halfback charging across the goal line with a football marked "ESOP".

Another was a picture of a local rock and roll band that cut a record titled "We Can Do It" and dedicated the proceeds to the Joint Study Committee.

A third showed a picture of several Weirton children in Halloween costume raising money with a neighborhood parade for the ESOP.

Later today, on the drive in from Pittsburgh, I couldn't help but notice the many references to the ESOP:

Billboards mentioning the ESOP.

Banners praising the ESOP.

Posters supporting the ESOP.

Local merchants with signs in their windows favoring the ESOP.

I think this is great. When it comes to ESOPs, my philosophy is simple: anything you can do is great. And the more you can do the better.

The Weirton community's all-out support for the ESOP reminds me of that great American philosopher, Mae West, who once said, "Too much of anything is simply marvelous."

Over the past ten years, we have had some success at enacting laws designed to encourage ESOPs. And I am proud to have played a part in sponsoring much of that legislation.

I am happy to report that your two fine Senators—Jennings Randolph and Robert Byrd—have been instrumental in helping secure the passage of this ESOP legislation. My good friend Jennings Randolph has announced his retirement effective the end of this Congress.

He has had a long and distinguished career in the Senate, and he will be sorely missed. However, I have every reason to believe that the next West Virginian sent to the Senate will also be an active ESOP supporter.

Your junior Senator—Bob Byrd—has served as the Democratic leader of the U.S. Senate for many years now. Already he has helped overcome environmental problems that stood in your way. He is strongly for what you are doing and I am proud to be his associate in this undertaking.

I am confident that Congress will continue to encourage employee stock ownership. ESOPs are not really a new concept. They are as old fashioned as the idea of people working together.

Employee stock ownership provides a way to bring out the very best that the American worker has to offer.

It offers the employees the opportunity to build for themselves a better life and to own what they have built.

As at Weirton, the United States is blessed with an increasisngly well-educated work force—a work force that is highly skilled and highly trained—and, not surprisingly, a work force that has brought with it an increase in expectations.

Americans want to work and they expect good pay. But they also want a sense of achievement, as well as recognition and challenge. People want—and need—an awareness of their importance to the process.

Today's farsighted managers understand this. They understand that you can't expect people to behave like responsible, dedicated workers unless they are treated as valuable players on the team.

Today's best management also understands that people need to share in the success that they are expected to help create. Certainly those who help to make the eco-

nomic pie are entitled to a slice of it. But they are also entitled to own a piece of the pie-making machinery.

I am convinced of the many benefits that capitalism has to offer. There is no doubt in my mind that free enterprise is better than any other system. But that does not mean it can't be improved upon.

One of the primary improvements we could make is to ensure that as this capitalist system of ours creates more new capital that it creates more new capitalists as well.

It comes as a great surprise to most people to discover just how few capitalists there really are in this great free enterprise economy of ours. Less than one percent of our people own over fifty percent of all individually-held corporate stock. More than 80 percent of Americans own no corporate stock whatever.

For most American families their most important "wealth" is now their entitlements under Social Security. Thus, for most Americans, their most important asset is an assurance that their children will be taxed on their behalf.

That is a long, long way down the wrong road for an economy that prides itself on a heritage of private property.

This ownership issue goes to the very heart of just what sort of economic system we mean to have in the United States—and just what sort of system we intend to leave for future generations of Americans.

For our economic policy to maintain—and encourage—a concentrated pattern of capital ownership is an extraordinarily shortsighted strategy. It is a particularly shortsighted strategy for a nation that hopes to see its way of doing business prevail throughout the world.

We are trying to prevent socialism and communism from taking over Latin America, and from taking over in Asia, Europe and Africa. If we are to be successful, we need to provide a working model of what we would advocate for all to see.

Rather than simply making the rich even richer—and I am sorry to report that that was largely the effect of the huge tax cut enacted in the last Congress—wouldn't we be better off working to see to it that more and more Americans have an opportunity to share in the bountiful potential of this great nation?

If we had such a model—and I think Weirton can be such a model—other nations would be more likely to follow our lead.

Secretary of State Schultz recently suggested that this nation needs programs that will enable us to "get ahead of history." Employee stock ownership is just such a program.

Full employment of our labor resources is important—but that policy should be expanded to include widespread ownership of our capital resources. The combination of those two policies would go a long way in providing a firm foundation for future economic growth that would be fairly shared.

What could be a better answer to the unfulfilled promise of communism?

By moving in the direction of more widespread employee ownership, we would be making good on our promise of a better life for our people while challenging other nations to do likewise. And lesser developed nations would be encouraged to move our way rather than seek the false hope that lies down the socialist path.

ESOPs can change the way in which others view our system. In much of the world, capitalism is portrayed simply as a system in which most of the productive wealth is held by a privileged few.

The solution lies not in destroying private property but in making it possible for everyone to become an owner of some of it.

The ESOP concept is difficult to classify. There are those who will tell you that ESOPs are very conservative. After all, what could be more conservative than "every man a capitalist"? And there are those who will tell you that ESOPs are very liberal. What could be more liberal than cutting the working man in on a piece of the action?

I recall that Adlai Stevenson was once asked whether he was a liberal or a conservative. Governor Stevenson's response seems custom-made for those trying to pigeonhole the Weirton ESOP. Governor Stevenson replied that the issue was not whether he was liberal or conservative. The question, he said, is "Am I headed in the right direction?"

Employee stock ownership is the right direction. You are on the verge of making the right decision in choosing to save your jobs—and save this valley—with an employee stock ownership plan.

Of course, the ESOP alone is not going to save Weirton. The ESOP is a financing technique, and the tax incentives it offers can help to make the acquisition possible.

But you are still going to have to produce a high quality product. And you will still have to meet the competition if you are going to sell what you produce. Fortunately, you have what it takes to make it go. Weirton has a proud hertiage of high quality production. Your fine reputation is widely known and richly deserved.

The Weirton community has shown that it is willing to do whatever it takes to make this a success, so be good to one another. Continue that spirit of cooperation and compromise that has made all this possible. Nourish your new company with dedication and craftsmanship. Prune it of waste and eliminate poor workmanship wherever it appears.

It's going to take that extra effort, and that extra attention to detail that separates the merely good from the truly excellent. We all know that you can make it. Some of the best minds in the financial world think so too.

Finally, let me congratulate everyone who has played a part in this courageous endeavor.

Your efforts are a source of pride and inspiration. The world is going to be watching Weirton. I know that people everywhere join me in wishing you the best of luck in the hope that you will grow and prosper.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed in the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 4:29 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1076. An act to strengthen the domestic water borne commerce of the United States.

The message also announced that the House has agreed to the following resolution:

H. Res. 232. Resolution electing the Honorable Jim Wright as Speaker pro tempore during the absence of the Speaker.

HOUSE MEASURE REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 1076. An act to strengthen the water borne commerce of the United States; to the Committee on Commerce, Science, and Transportation.

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-1237. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State transmitting, pursuant to law, copies of international agreements other than treaties, entered into by the United States within the previous 60 days; to the Committee on Foreign Relations.

EC-1238. A communication from the Associate Dean for Operations, Uniformed Services University of the Health Sciences, Department of Defense transmitting, pursuant to law, the annual pension report for the Uniformed Services University of the Health Sciences; to the Committee on Governmental Affairs.

EC-1239. A communication from the Director of Nonappropriated Fund Financial Management, Department of the Army transmitting, pursuant to law, the report for the U.S. Army nonappropriated fund (NAF) employee retirement plan for the fiscal year ending September 30, 1982; to the Committee on Governmental Affairs.

EC-1240. A communication from the Executive Director of the President's Commission on Executive Exchange transmitting a draft of proposed legislation to repeal the termination provision on use of participation fees by the President's Commission on Executive Exchange; to the Committee on Governmental Affairs.

EC-1241. A communication from the Acting Administrator of the General Services Administration, transmitting pursuant to law, a report on the cost of travel and of operating privately owned vehicles to Government employees while engaged on official business; to the Committee on Governmental Affairs.

EC-1242. A communication from the United States of America Postal Rate Commission transmitting, pursuant to law, the Opinion and Recommended Decision on

Elimination of the Aggregate Letter Rule; to the Committee on Governmental Affairs.

EC-1243. A communication from the Chairman of the Board of Directors, Washington Metropolitan Area Transit Authority transmitting, pursuant to law, the 16th annual report of the Washington Metropolitan Area Transit Authority; to the Committee on Governmental Affairs.

EC-1244. A communication from the Assistant Secretary for Health, Department of Health and Human Services transmitting, pursuant to law, two copies of a report on a new system of records: Biomedical Research: Records of Subjects in Biomedical and Behavioral Studies of Child Health and Human Development; to the Committee on Governmental Affairs.

EC-1245. A communication from the Administrator of the Veterans' Administration, transmitting, pursuant to law, the semiannual report of the Veterans' Administration Inspector General for the period October 1, 1982 through March 31, 1983; to the Committee on Governmental Affairs.

EC-1246. A communication from the Secretary of Defense, transmitting pursuant to law, the semiannual report on audit, inspection and investigative operations in the Department of Defense for the period ending March 31, 1983; to the Committee on Governmental Affairs.

EC-1247. A communication from the Administrator of the Office of Federal Procurement Policy, transmitting pursuant to law, a report on the major activities of the Office of Federal Procurement Policy for the period October 1, 1980 through December 31, 1982; to the Committee on Governmental Affairs.

EC-1248. A communication from the Inspector General, Department of Health and Human Services, transmitting a report entitled "False identification—The Problem and Technological Options"; to the Committee on Governmental Affairs.

EC-1249. A communication from the Inspector General, Department of Health and Human Services, transmitting, pursuant to law, the abbreviated annual report of the Inspector General for the period January 1 through September 30, 1982; to the Committee on Governmental Affairs.

EC-1250. A communication from the Secretary of the Department of Agriculture transmitting, pursuant to law, the semiannual report of the Inspector General covering the period October 1, 1982 through March 31, 1983; to the Committee on Governmental Affairs.

EC-1251. A communication from the Director of the Office of Personnel Management, transmitting, a draft of proposed legislation to amend section 3109 of title 5, United States Code, to clarify the authority for the appointment and compensation of experts and consultants as Federal employees, and for other purposes; to the Committee on Governmental Affairs.

EC-1252. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, the semiannual report of the Inspector General, Agency for International Development for the period October 1, 1982 through March 31, 1983; to the Committee on Governmental Affairs.

EC-1253. A communication from the Secretary of the Department of Health and Human Services transmitting a proposed draft of legislation that would be cited as "Refugee Assistance Amendments of 1983"; to the Committee on the Judiciary.

EC-1254. A communication from the Director of the Federal Prison System, Department of Justice transmitting, pursuant to law, a copy of the 1982 Federal Prison Industries, Inc., Board of Directors' annual report to Congress for calendar year 1982; to the Committee on the Judiciary.

EC-1255. A communication from the Assistant Attorney General, Antitrust Division of the Department of Justice, transmitting, a report on identical bidding in advertised public procurement; to the Committee on the Judiciary.

EC-1256. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation; to the Committee on the Judiciary.

EC-1257. A communication from the Chairman of the National Commission for Employment Policy, transmitting the "Eighth Annual Report; The Work Evolution; to the Committee on Labor and Human Resources.

EC-1258. A communication from the Director of the National Science Foundation, transmitting, pursuant to law, a report of the National Science Foundation Committee on Equal Opportunities in Science and Technology; to the Committee on Labor and Human Resources.

EC-1259. A communication from the Secretary of the Department of Health and Human Services transmitting, pursuant to law, the fifth report to Congress from the National Center for the Prevention and Control of Rape; to the Committee on Labor and Human Resources.

EC-1260. A communication from the Secretary of Education, transmitting, pursuant to law, an annual report on the National Technical Institute for the Deaf for fiscal year 1982; to the Committee on Labor and Human Resources.

EC-1261. A communication from the Office of the General Counsel of the Department of Defense transmitting a proposed draft of legislation to increase the number of Assistant Secretaries in the Department of Defense; to the Committee on Armed Services.

EC-1262. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Review of the Federal Housing Administration Fund's Financial Statements for the Year Ended September 30, 1981"; to the Committee on Banking, Housing, and Urban Affairs.

EC-1263. A communication from the Chairman of the Board of the U.S. Synthetic Fuels Corporation transmitting, pursuant to law, the U.S. Synthetic Fuels Corporation quarterly report for the quarter ended March 31, 1983; to the Committee on Energy and Natural Resources.

EC-1264. A communication from the District of Columbia Auditor, transmitting a report entitled "Allegations Regarding Ticket Fixing and Improper Release From Impoundment by the Department of Transportation Officials"; to the Committee on Governmental Affairs.

EC-1265. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Capital Improvements Program Borrowing"; to the Committee on Governmental Affairs.

EC-1266. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Revenue Report for April 1983"; to the Committee on Governmental Affairs.

EC-1267. A communication from the Director of the Office of Management and Budget, transmitting a draft of proposed legislation to simplify the authorizations for reduced-rate postage supported through appropriated funds, to enable the extent of public support for eligible mailings to be more visible and more easily understood by the public, and for other purposes; to the Committee on Governmental Affairs.

EC-1268. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cummulative report on recissions and deferrals dated June 1, 1983, pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Labor and Human Resources, the Committee on Banking, Housing, and Urban Affairs, the Committee on Energy and Natural Resources, the Committee on Armed Services, the Committee on the Judiciary, the Committee on Foreign Relations, the Committee on Finance, the Committee on Veterans Affairs, the Committee on Governmental Affairs, and the Committee on Small Business.

EC-1269. A communication from the General Counsel of the Federal Emergency Management Agency transmitting a draft of proposed legislation amending the Disaster Relief Act of 1974; to the Committee on Environment and Public Works.

EC-1270. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the "Alcoholic Beverage Control Amendments Act of 1983" and report; to the Committee on Governmental Affairs.

EC-1271. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the "D.C. Municipal Regulations Publication Act of 1983" and report; to the Committee on Governmental Affairs.

EC-1272. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the "D.C. Election Code of 1955 and Related Election Practices Amendments Act of 1983" and report; to the Committee on Governmental Affairs.

EC-1273. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, the "Cable Television Communications Act of 1981 Amendment Act of 1983" and report; to the Committee on Governmental Affairs.

EC-1274. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, the "Technical and Clarifying Amendments Act of 1983" and report; to the Committee on Governmental Affairs.

EC-1275. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, the "Van Dyke Allen Court Designation Act of 1983" and report; to the Committee on Governmental Affairs.

EC-1276. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, the "Solid Waste Regulations Amendments Act of 1983" and report; to the Committee on Governmental Affairs.

EC-1277. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, the "Day Care Policy Act of 1979 Amendment Act of 1983" and report; to the Committee on Governmental Affairs.

EC-1278. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, the "Firearms Control Regulations Act of 1975 Amendments Act of 1983" and report; to the Committee on Governmental Affairs.

EC-1279. A communication from the Special Counsel of the Merit Systems Protection Board transmitting, pursuant to law, the annual report to Congress covering the activities of the Office of the Special Counsel of the U.S. Merit Systems Protection Board for calendar year 1982; to the Committee on Governmental Affairs.

EC-1280. A communication from the Assistant Secretary for Health, Department of Health and Human Services transmitting, pursuant to law, two copies of a report on an altered system of records; "Clinical Research: Division of Cancer Biology and Diagnosis Patient Trials"; to the Committee on Governmental Affairs.

EC-1281. A communication from the Assistant Secretary for Health, Department of Health and Human Services transmitting, pursuant to law, two copies of a report on an altered system of records: "Participants in Drug Abuse Research Studies, Supporting New Drug Applications"; to the Committee on Governmental Affairs.

EC-1282. A communication from the Architect of the Capitol transmitting, pursuant to law, a report on all expenditures from moneys appropriated to the Architect for the period October 1, 1982 through March 31, 1983; to the Committee on Appropriations.

MEASURE PLACED ON THE CALENDAR

Under the authority of the order of the Senate of April 21, 1983, the Committee on Labor and Human Resources was discharged from the consideration of the following bill, and the bill was placed on the calendar:

S. 724. A bill to authorize the United States Army Corps of Engineers to undertake activities to provide new public works investment, grants to the several States to encourage and foster the construction of necessary public capital investment projects, to assist in creating new and productive jobs, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. TOWER, from the Committee on Armed Services:

Mr. TOWER. Mr. President, from the Committee on Armed Services, I report favorably the following nominations: Lt. Gen. Howard W. Leaf, U.S. Air Force, to be reassigned in the grade of lieutenant general and to be Senior U.S. Air Force Member of the Military Staff Committee of the United Nations and Lt. Gen. Oren E. DeHaven, U.S. Army, (age 58) to be placed on the retired list. I ask that these names be placed on the Executive Calendar.

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

Mr. TOWER. Mr. President, in addition, in the Army there are 26 appointments to the grade of colonel and below (list begins with Armand N. Jalbert) and the Marine Corps there are 49 appointments to the grade of second lieutenant (list begins with David E. Adams II). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be orderd to lie on the Secretary's desk for the information of any Senator.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of June 7, 1983, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SARBANES:

S. 1474. A bill to amend title 10, United States Code, to authorize the use of post and base exchanges and commissary stores by persons who, but for age, would be entitled to retired pay under chapter 67 of such title; to the Committee on Armed Services.

By Mr. WALLOP (for himself, Mr. BOREN, Mr. GRASSLEY, Mr. PRYOR, Mr. ABDNOR, Mr. BOSCHWITZ, Mr. PRESSLER, and Mr. HUDDLESTON):

S. 1475. A bill to amend the Internal Revenue Code of 1954 to repeal the highway use tax on heavy trucks and to increase the tax on diesel fuel used in the United States; to the Committee on Finance.

By Mr. JOHNSTON:

S. 1476. A bill to provide for a temporary suspension of the duty on 6-amino-1-naphthol-3-sulfonic acid until January 1, 1986; to the Committee on Finance.

S. 1477. A bill to provide for temporary suspension of the duty on 2-(4-aminophenyl) - 6 - methylbenzothiazole - 7 - sulfonic acid until January 1, 1986; to the Committee on Finance.

By Mr. JOHNSTON (for himself and Mr. LEVIN):

S. 1478. A bill to provide for a 3-year suspension of the duty on B-naphthol; to the Committee on Finance.

By Mr. LONG (for himself and Mr. JOHNSTON):

S. 1479. A bill to provide for the striking of medals to commemorate the Louisiana World Exposition; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY:

S. 1480. A bill to reduce temporarily the duty on caffeine; to the Committee on Finance.

S. 1481. A bill to suspend the duty on sulfanilamide until the close of December 31, 1986; to the Committee on Finance.

S. 1482. A bill to suspend duty on sulfaquinoxaline until the close of December 31, 1986; to the Committee on Finance.

S. 1483. A bill to suspend the duty on sulfaquanidine until the close of December 31, 1986; to the Committee on Finance.

S. 1484. A bill to suspend the duty on sulfamethazine until the close of December 31, 1986; to the Committee on Finance.

S. 1485. A bill to suspend the duty on sulfathiazole until the close of December 31, 1986; to the Committee on Finance.

By Mr. DANFORTH:

S. 1486. A bill relating to the duty-free entry of certain scientific equipment imported for the use of the Ellis Fischel State Cancer Hospital, Columbia, Mo.; to the Committee on Finance.

By Mr. PRESSLER:

S. 1487. A bill to amend title 10 of the United States Code to allow reserve commissioned officers to be promoted to, or recognized in, a higher reserve grade while serving on active duty; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. JACKSON (for himself and Mr. MATHIAS):

S. Res. 158. Resolution expressing the sense of the Senate that the President should convene a national bipartisan commission to address the serious long-term problems of security and economic development in Central America; submitted and read.

By Mr. GLENN:

S. Con. Res. 45. Concurrent resolution expressing the sense of the Senate that the Republic of South Africa should cease its "blackspot" policy of forcibly removing black South Africans from their legally acquired residences and relocating them; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SARBANES:

S. 1474. A bill to amend title 10, United States Code, to authorize the use of post and base exchanges and commissary stores by persons who, but for age, would be entitled to retired pay under chapter 67 of such title; to the Committee on Armed Services.

EXTENSION OF COMMISSARY PRIVILEGES TO CERTAIN RETIREES

● Mr. SARBANES. Mr. President, I have today introduced legislation designed to make service in the Reserve and Guard components of our Armed Forces more attractive as a secondary career choice. This measure provides for the extension of commissary and base or post exchange access for those members who have completed all statutory requirements for retirement as contained in 10 U.S.C. 67 except for attaining the age of 60.

Under the present retirement system, a member of the Guard or Reserve is mandatorily retired after the completion of 30 years of satisfactory Federal service. Where personnel began their military duty following completion of high school or college, this forced retirement procedure will characteristically take place when the member reaches the age of 50. During the period between the point when the guardsman or reservist completes his

service and the point where he or she is again permitted the use of these base facilities, they are essentially shut out and cut off from the service and a way of life to which they have devoted 30 years. This measure is designed to both increase the incentive to remain in these units and to remedy the unfair situation that now exists. This modification would entail no significant additional costs to the Government nor would it adversely impact upon the present commissary or exchange systems.

Mr. President, our Reserve and Guard components are an integral part of our defense capability. In a time of national emergency, these units will be required to shoulder much of the burden of our defense needs and to provide thousands of experienced and trained personnel to respond to the Nation's call. This legislation will provide an added incentive for people to enter the Reserve and Guard and to complete a full commitment to a Guard or Reserve unit. I feel this measure is an essential element in maintaining a skilled and Ready Reserve and Guard and I urge my colleagues to support this legislation.

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. 1474

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1032. Post exchange and commissary store privileges for certain nonregular members of the armed forces

"Subject to such rules and regulations as the Secretary concerned may prescribe, a member of the armed forces who has met all the requirements for retired pay under chapter 67 of this title except for attaining 60 years of age shall be entitled to use the services and facilities of post or base exchanges and commissary stores operated under the jurisdiction of any military department.".

(b) The table of sections at the beginning of chapter 53 of such title is amended by adding at the end thereof the following new item:

"103. Post exchange and commissary store privileges for certain nonregular members of the armed forces.".●

By Mr. WALLOP (for himself, Mr. BOREN, Mr. GRASSLEY, Mr. PRYOR, Mr. ABDNOR, Mr. BOSCHWITZ, Mr. PRESSLER, and Mr. HUDDLESTON):

S. 1475. A bill to amend the Internal Revenue Code of 1954 to repeal the highway use tax on heavy trucks and to increase the tax on diesel fuel used in heavy trucks; to the Committee on Finance.

HIGHWAY USE TAX EQUALIZATION ACT OF 1983

Mr. WALLOP. Mr. President, today I am introducing the Highway Use Tax Equalization Act of 1983, on behalf of myself, the distinguished Senator from Oklahoma (Mr. BOREN) and others. This proposal would repeal the burdensome heavy vehicle user fees which were heaped on the back of the American trucking industry when the 97th Congress passed the Surface Transportation Assistance Act of 1982.

I do believe truckers and all other classes of highway users should pay their share toward maintaining, repairing, and constructing our Nation's highway network—but only their fair share. Under the Surface Transportation Assistance Act, the Nation's truckers will see their use tax increase by 800 percent, going from $240 to $1,900 per year by 1988. But they, too, believe they should pay their fair share, and indeed our proposal, which would replace the user fee tax concept with a pay-as-you-go system, is enthusiastically supported by the American Trucking Association. It would accomplish this by eliminating the heavy truck use tax and replace it with an increase in the diesel fuel tax imposed only on vehicles weighing over 10,000 pounds, or what is called a diesel differential.

The bill would tax diesel fuel an additional 3 cents on July 1, 1983, and 2 more cents on July 1, 1984. So, in 1983, we would end up with a diesel tax of 12 cents a gallon and in 1984 it would increase to 14 cents a gallon. The tax on gasoline and diesel used in automobiles, pickups, and vans under 10,000 pounds would remain at 9 cents and would not be affected by this proposal.

By reestablishing the pay-as-you-go system, a vehicle traveling 20,000 miles a year on our Nation's transportation network would pay, and should pay more than the truck traveling only 10,000 miles. The Surface Transportation Assistance Act changed the pay-as-you-go system to a tax on the gross weight of the vehicle, or a pay-whether-or-not-you-go system which amounts to not much more than a Federal property tax.

We do not, by this legislation, mean to reduce the financial obligation of the trucking industry with respect to the maintenance of our highway system. And while preliminary revenue estimates for this legislation fall somewhat short of the mark, I do expect that obligation will be fulfilled as the bill progresses through the legislative process. Overall, I believe this measure will provide an equitable solution to maintaining the safety standards for America's highways and bridges while at the same time boosting the fragile financial health of a critical American industry.

Frankly, Mr. President, I stated earlier that all highway users should pay their fair share to the upkeep of our Nation's highways. I did vote against the Surface Transportation Assistance Act, as did many of my colleagues, not because I was against road repairs, but because I believed the trucking industry could not financially stay afloat under the weight of increased heavy vehicle use taxes. If I may, I would like to defer to the wisdom expressed by an old Wyoming rancher that "You can learn very little extra from the second kick of a mule." Our highways need repairing—that is a plain fact. But, to make these repairs on the back of an industry which is still struggling to land feet first on the balance sheet after 3 years of deregulation would be the final kick I am afraid.

To bring this point home, I would like to highlight some rather startling facts about the trucking industry. In 1982, the motor carrier industry suffered its worst financial results in history. Of the top 100 carriers by revenue, 45 had net losses in 1982. The profit margin of those firms was .42 of 1 percent and their return on equity was 2.19 percent compared to 11.10 percent in 1981.

The figures get worse. For example, based on final net income, almost 43 percent of the carriers ended 1982 with a net loss. In the fourth quarter of 1982 specifically, 59 percent of all carriers experienced losses in operating their trucking business. This is in conjunction with 300 major carriers, employing 55,800 which have gone out of business altogether, are in chapter 11 bankruptcy, or have reduced or altered service since July 1980. And, even now, the trucking industry—without the user fee increase contained in the Surface Transportation Assistance Act—pays income taxes at the second highest effective rate of 46.1 percent in a group of 22 industries according to the Joint Committee on Taxation.

Many trucking companies in my State of Wyoming reflect these gruesome financial facts of life. Just yesterday I received the 1982 annual report of a trucking firm in my State which saw a 13.5-percent decrease in revenues. The book value per share of this company's common stock fell from over $3.50 to slightly below 50 cents during this last year. When you compare this value to the pre-deregulation book value of almost $7 in 1978, that is quite a plunge in 4 years time.

In closing, I would like to mention a statement included in a recent issue of the Wyoming Trucker magazine which many truckers believe today. This statement is from a lobbyist in the railroad industry who was quoted as saying:

> We're waiting like a hawk on a barn roof. Rail deregulation has helped the most, but this new law (the Surface Transportation Assistance Act) will help, too.

These words illustrate just how financially fragile the American truck-

ing industry is now, and will continue to be, if the heavy truck taxes remain on the books.

I urge my colleagues to support the Highway Use Tax Equalization Act of 1983. Let us not contribute in hammering home the final nail into the coffin of a truly vital American industry.

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. 1475

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Highway Use Tax Equalization Act of 1983".

SEC. 2. REPEAL OF THE HIGHWAY USE TAX.

(a) IN GENERAL.—Subchapter D of chapter 32 of the Internal Revenue Code of 1954 (relating to the tax on the use of certain vehicles) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 6156 of such Code (relating to installment payment of highway use tax) is hereby repealed.

(2) The table of subchapters of chapter 36 of such Code is amended by striking out the item relating to subchapter D.

(3) The table of sections of subchapter A of chapter 62 of such Code is amended by striking out the item relating to section 6156.

(4) Paragraph (2) of section 6601 of such Code (relating to installment payments) is amended—

(A) by striking out ", 6156 (a),", and

(B) by striking out ", 6156 (b),".

SEC. 3. INCREASE IN DIESEL FUEL TAX.

(a) INCREASE IN 1983.—

(1) IN GENERAL.—Paragraph (1) of section 4041 (a) of the Internal Revenue Code of 1954 (relating to diesel fuel) is amended by striking out "9 cents" and inserting in lieu thereof "12 cents".

(2) GASOHOL.—Paragraph (1) of section 4041 (k) of such Code (relating to fuels containing alcohol) is amended to read as follows:

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of the sale or use of any liquid fuel at least 10 percent of which consists of alcohol (as defined in section 4081 (c) (3))—

"(A) subsection (a) (1) shall be applied by substituting '7 cents' for '12 cents' each place it appears, and

"(B) no tax shall be imposed by subsection (c).".

(b) INCREASE IN 1984.—

(1) IN GENERAL.—Paragraph (1) of section 4041 (a) of such Code, as amended by subsection (a) (1), is further amended by striking out "12 cents" and inserting in lieu thereof "14 cents".

(2) GASOHOL.—Subparagraph (A) of section 4041 (k) of such Code, as amended by subsection (a) (2), is further amended—

(A) by striking out "7 cents" and inserting in lieu thereof "9 cents", and

(B) by striking out "12 cents" and inserting in lieu thereof "14 cents".

(c) SPECIAL RULE FOR DIESEL FUEL USED IN AUTOMOBILES AND LIGHT TRUCKS.—The Secretary shall by regulation prescribe a means whereby the additional tax imposed by this Act shall not apply to fuel otherwise subject to this Act used in a highway vehicle which has a gross vehicle weight rating not in excess of 10,000 pounds.

SEC. 4. EFFECTIVE DATES.

(a) HIGHWAY USE TAX REPEAL.—The amendments made by section 2 shall take effect on July 1, 1983.

(b) INCREASES IN DIESEL FUEL TAX.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) of section 3 shall take effect on July 1, 1983.

(2) INCREASE IN 1984.—The amendments made by section 3(b) shall take effect on July 1, 1984.

● Mr. BOREN. Mr. President, today, I join with my colleague from Wyoming, Senator WALLOP, in introducing legislation that will replace the heavy-vehicle-use tax with an increase in the diesel fuel tax of 5 cents for heavy vehicles over 10,000 pounds.

This legislation replaces the entire user fee with an increase in the diesel fuel tax imposed on trucks of 3 cents in 1983, and an additional 2 cents in 1984 for a total of 5 cents. It is anticipated that this bill will raise approximately the same amount of revenue as did the heavy-use tax with the burden being placed on those vehicles with the greatest highway use.

As my colleagues will remember, Congress passed the heavy-use tax during the last hectic days of the lameduck session right before Christmas. This legislation was passed without the careful scrutiny that it deserved especially in light of the added burden to our Nation's truckers.

I do not believe that most Members understood the extreme impact on our Nation's truckers when we passed this huge increase in heavy-vehicle-use taxes. Prior law set the maximum use tax on the heaviest trucks at $240 per year. Although the legislation that finally passed raised the maximum tax to $1,900, which is less than the original Department of Transportation proposal of a maximum tax of $2,700, I believe even this much of an increase is too burdensome. An increase in tax from $240 per year to $1,900 per year amounts to almost an 800-percent increase. And this is only the use tax. This does not even take into account the increase in the fuels tax from 4 cents to 9 cents per gallon and the increase in excise taxes on truck tires.

In the rush to create jobs and fix our Nation's highways and bridges, which we can all agree needs to be done, I believe that we created a situation where vast numbers of our Nation's truckers will not be able to continue operating profitably. It is an unrealistic assumption to believe that all these increased taxes can be passed through to the shippers via rate increases. Such huge increases will certainly force the shippers to look for alternatives for moving their goods.

Mr. President, I do not believe that Congress willingly chose to force many truckers out of business in our efforts to rebuild our network of roads and bridges. The 5-cent-a-gallon increase in fuel tax sounded good for raising several billion dollars to do this. However, I do not believe that most of my colleagues knew what a tremendous burden we would be placing on this segment of our Nation's work force.

Unfortunately, by passing this legislation, we have also put a large financial burden on our shippers, especially farmers and small businesses who are already economically hard hit.

Mr. President, passage of this bill will still allow us to raise the revenue needed for the highway trust fund. We would still be able to carry out our objective of repairing and maintaining our roads and bridges, but at the same time, we would not be forcing our truckers out of business.

I urge my colleagues to support the passage of this bill.●

● Mr. PRESSLER. Mr. President, I rise today to join my distinguished colleague from Wyoming in sponsoring this important legislation. It is absolutely essential to the existence of small truckers and the well-being of the thousands of consumers who depend daily on the goods they transport.

The basic goal of this bill is to repeal the heavy-user fee that is scheduled to go into effect in July 1983, and replace the revenue with a 5-cent diesel tax. You may recall that I introduced a similar bill on the first legislative day of this Congress. I am pleased to join in this effort today because my commitment to changing this provision of the Surface Transportation Assistance Act of 1982 remains firm. It is absolutely essential that we in Congress speak with a unified voice in our collective effort to correct the inequities of this provision. I will gladly support any legislation which will achieve that end.

As the situation now stands, truckers will have to pay a flat heavy-use tax of up to $1,600 per rig starting a little over 1 year from today, and up to as much as $1,900 in the years ahead. This figure does not include the existing taxes on diesel fuel, tires, sales tax, the various State taxes, and others. After 1985, almost all trucks weighing 80,000 pounds or more will have to pay. It makes no difference if they travel 10,000 miles, 100,000 miles, or 200,000 miles per year. If you own the truck you pay the tax. I feel this is absurd.

The tax we are trying to repeal is called a use tax. As I have often told my colleagues in the past, it is not a real use tax. A more appropriate name would be an "existence" tax. Truckers would be taxed simply because they exist, regardless of how much they really use the highways. Such a tax will drive thousands of small truckers out of business and cause transporta-

tion rates and consumer prices to rise. This is unfair and it must be changed.

I have talked with hundreds of truckers in my home State of South Dakota. In a rural State like mine, we will be especially hard hit. Many truckers are farmers who drive truck part time just to make ends meet. To assess such a tax increase now would surely wipe them out. Everyone should be aware that the trucking industry is currently going through some of its hardest economic times ever. If we in Congress allow this tax to take effect unchanged, it would make a very bad economic situation much worse. It would certainly be the straw that broke the camel's back for thousands of small operations throughout the country.

I am not opposed to having those who use something pay for it. Neither are the vast majority of the truckers I have spoken with. Everyone who uses our Nation's highway systems know they are in desperate need of repair. But we can certainly assess the damage on a more fair and equitable basis.

Mr. President, I believe this type of legislation goes a long way in doing just that. I urge my colleagues to support its passage. It is in the best interests of all Americans.●

● Mr. BOSCHWITZ. Mr. President, since the passage of the 5-cent gas tax bill, I have been very active in efforts to reduce or repeal the enormous increases in the heavy vehicle use tax.

As you know, prior to the gas tax bill, the maximum heavy vehicle use tax was $240 a year for an 80,000-pound truck. Now, the tax will go to $1,600 next July 1 and will hit $1,900 a year by 1988 for the same truck.

I felt then, as I feel now, that it is absurd to expect an industry as hard hit by the recession and regulation as the trucking industry to absorb tax increases of over 700 percent.

It is because of this high level of taxes and the "too much too soon" concerns I have heard from truckers and trucking companies that I have introduced a bill of my own to lower the use taxes; and I am cosponsoring Senator WALLOP's bill today.

Two issues have been thrown around in the debate on these tax increases. One is fairness: Who pays? The other is accountability: How much should they pay?

The trucking industry does not dispute that they damage roads. Nor do they disagree that heavy trucks cause more damage than autos or lighter trucks. However, they all agree that a flat tax, imposed regardless of miles traveled, is unfair and defeats the idea of accountability.

The bill we are introducing today is probably the best way to solve the two issues, for it replaces the flat heavy vehicle use tax with a pay-as-you-go diesel tax.

This means trucks would only pay the tax if they were on the road, actually working. They would not pay huge taxes for inventory they cannot use during slow periods. The pay-as-you-go approach is also preferable to the lump sum payments required by the heavy vehicle use tax because it allows the tax to be a barometer of actual business, not inventory. And that is what a user fee is supposed to be.

This bill replaces the heavy use tax with a 3-cent diesel tax increase on July 1, 1983, and an additional 2 cents on July 1, 1984, and is probably the fairest users tax we can develop. It also brings in the same revenue and actually creates a tax system whereby those who go the most miles pay the most tax.

I believe most of us here in the Senate understand the importance of a healthy, competitive, trucking industry. Trucks are a vital part of our transportation system, basically responsible for all the first and last stage delivery of bulk commodities. We cannot afford to lose this industry because of tax or user fee policies.

I hope my colleagues on the Finance Committee follow the able leadership of Senator WALLOP and push for rapid consideration of this bill. Some may argue the increases are still a year away, so why hurry? But do not be put off; business plans ahead, even if we here in the Senate do not seem able to.

I urge my colleagues to support this bill, and to work with the authors to insure the bill receives quick action.●

By Mr. LONG (for himself and Mr. JOHNSTON):

S. 1479. A bill to provide for the striking of medals to commemorate the Louisiana World Exposition; to the Committee on Banking, Housing, and Urban Affairs.

MEDALS TO COMMEMORATE THE LOUISIANA WORLD EXPOSITION

Mr. LONG. Mr. President, in May 1984, the Louisiana World Exposition will officially open in New Orleans, La. To honor this event, I have introduced legislation to authorize the striking of national medals appropriate for the event by the Secretary of the Treasury for sale by the Louisiana World Exposition, Inc., a nonprofit corporation. These national medals will commemmorate this exciting international event and will be sought after by both medallion collectors and exposition visitors.

The legislation which I have introduced, and which is cosponsored by Senator JOHNSTON, of Louisiana, allows the U.S. Mint to strike and deliver to the exposition officials no more than 750,000 medals in quantities of not less than 2,000 at times that are required by the exposition officials. To indemnify the United States for full payment of the costs of manufacturing these national medals, satisfactory security must be furnished by the Louisiana World Exposition to the Director of the mint.

This legislation is not intended to cost the U.S. taxpayers any money but merely authorizes this official national medal to be struck by the U.S. Mint and marketed by the exposition. Therefore, the issuance of these medals should result in no net cost to the Federal Government.

The exposition promises to be a successful celebration of its theme, "The World of Rivers—Fresh Water as a Source of Life." Its site on the Mississippi River banks in New Orleans demonstrates the utility as well as the beauty of this great river. Inhabitants along the entire Mississippi River and other great rivers in this country and around the world will find the Louisiana World Exposition both enjoyable and educational. They will be able to remember this event through the national medal which this legislation authorizes.

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. 1479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in commemoration of the Louisiana World Exposition to be held at New Orleans, Louisiana, in 1984, the Secretary of the Treasury (hereinafter referred to as the "Secretary") is authorized and directed to strike and deliver to Louisiana World Exposition, Incorporated, a nonprofit corporation, not more than seven-hundred and fifty thousand medals, with suitable emblems, devices, and inscriptions to be determined by the Secretary in cooperation with the Exposition corporation. The medals, which may be disposed of by the corporation at a premium, may be delivered at such times as may be required by the corporation in quantities of not less than two thousand, but no medals shall be struck by the Secretary after December 31, 1984.

SEC. 2. The Secretary shall cause such medals to be struck and delivered at not less than the estimated cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses. Security satisfactory to the Director of the Mint shall be furnished to indemnify the United States for full payment of such costs.

SEC. 3. The medals authorized to be struck and delivered under this Act shall be struck in gold, silver, or bronze and of such size or sizes as shall be determined by the Secretary in consultation with the corporation.

SEC. 4. The medals, produced by the Secretary, shall be considered to be national medals for purposes of section 5111 of title 31, United States Code.

By Mr. PRESSLER:

S. 1487. A bill to amend title 10 of the United States Code to allow Reserve commissioned officers to be pro-

moted to, or recognized in, a higher Reserve grade while serving on active duty; to the Committee on Armed Services.

PROMOTION OF CERTAIN RESERVE COMMISSIONED OFFICERS

Mr. PRESSLER. Mr. President, today I am introducing a bill to amend title 10 of the United States Code to allow Army Reserve and National Guard commissioned officers to be promoted to, or recognized in, a higher Reserve grade while serving on active duty.

This legislation is needed to correct a fluke in the law which allows such promotions for Air Force, Navy, and Marine Corps Reserve officers while on active duty, but does not permit them in the case of USAR/ARNG officers on active Guard/Reserve duty.

With the enactment in 1980 of the Defense Officers Personnel Management Act, the service criteria of all officers on active duty were unified. However, section 3380 of title 10, United States Code still operates to prevent Army Reserve officers from receiving promotions for which they are otherwise eligible when they are on active duty. The bill I am introducing today will amend section 3380 to remove this inequitable barrier.

Approximately 500 officers currently on active Guard/Reserve duty are prevented from accepting promotions, resulting in as much as 3 years loss of pay in the higher ranks for which they are qualified. The consequence of this situation is that recruitment and retention of essential officers in our Reserve components is threatened. Having served as an officer in the U.S. Army, I am familiar with the value of eliminating or minimizing unnecessary bureaucratic obstacles to prompt recognition and promotion of highly qualified and dedicated members of our Armed Forces. We cannot permit the destruction of officer morale and expect to maintain the world's best All Volunteer Armed Forces.

Mr. President, I met recently with South Dakotans who serve as officers in Guard and Reserve components. They made it very clear that their own desire to continue serving our Nation was hurt by the knowledge that their promotions would have to wait as long as 3 years until their active duty service terminated. We cannot afford to lose these good men from this active duty program just because of a quirk in the law which denies them for 3 years the pay increase which would accompany their deferred promotions.

According to the Army, whatever additional cost would be incurred by the enactment of my legislation would be negligible. This is because, like promotions for their peers in the Air Force, Navy, and Marine Reserves, any promotions would be subject to grade and strength limitations. Identical legislation has been introduced by Congressman SOLOMON in the House of Representatives.

Mr. President, these officers should not be denied their normal promotions simply because a no longer valid provision of law remains unamended. I urge my colleagues to join me in support of this effort to correct a serious inequity which poses negative consequences for key personnel working to maintain the readiness of our national security forces.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1487

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3380 of title 10 of the United States Code is amended to read as follows:

"§ 3380. Commissioned officers; promotion of reserve commissioned officers on active duty

"(a) Subject to the limitations contained in section 524, a reserve commissioned officer on active duty (other than for training) who is recommended by a selection board for promotion to, or found qualified for Federal recognition in, a higher reserve grade may be promoted to such higher reserve grade and may continue to serve on active duty, or be ordered to serve on active duty, in such higher reserve grade.

"(b) The date of rank for promotion purposes only of any reserve commissioned officer, who is recommended by a selection board for promotion to, or found qualified for Federal recognition in, a higher reserve grade but whose promotion to, or recognition in, such higher reserve grade is delayed only because of the limitations contained in section 524, is the date such officer would have been promoted to, or recognized in, such higher reserve grade if the limitations contained in section 524 did not exist.".

SEC. 2. The table of sections at the beginning of chapter 337 of title 10 of the United States Code is amended by striking out the item relating to section 3380 and inserting in lieu thereof the following new item:

"3380. Commissioned officers; promotion of reserve commissioned officers on active duty.".

ADDITIONAL COSPONSORS

S. 128

At the request of Mr. ROTH, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 128, a bill entitled "The Equal Opportunity Retirement Act of 1983."

S. 249

At the request of Mr. PACKWOOD, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 249, a bill entitled the "Employee Educational Assistance Extension Act."

S. 337

At the request of Mr. PACKWOOD, the name of the Senator from Virginia (Mr. TRIBLE) was added as a cosponsor of S. 337, a bill to amend the Internal Revenue Code of 1954 to make permanent the deduction for charitable contributions by nonitemizers.

S. 476

At the request of Mr. LEVIN, the names of the Senator from Tennessee (Mr. SASSER), and the Senator from Minnesota (Mr. DURENBERGER) were added as cosponsors of S. 476, a bill to amend title II of the Social Security Act to require a finding of medical improvement when disability benefits are terminated, to provide for a review and right to personal appearance prior to termination of disability benefits, to provide for uniform standards in determining disability, to provide continued payment of disability benefits during the appeals process, and for other purposes.

S. 663

At the request of Mr. ARMSTRONG, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 663, a bill to prohibit the payment of certain agriculture incentives to persons who produce certain agricultural commodities on highly erodible land.

S. 688

At the request of Mr. HATFIELD, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 688, A bill to provide that, unless the Government of El Salvador actively participates in negotiations with all major parties to the conflict which are willing to participate unconditionally in negotiations for the purpose of achieving a cease-fire and an equitable political solution to hostilities, U.S. military support for El Salvador shall be terminated, with military assistance funds to be transferred for use for development and humanitarian assistance.

S. 788

At the request of Mr. QUAYLE, the name of the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of S. 788, a bill to amend the Agricultural Act of 1949 to reduce the loan rates for the 1983 through 1985 crops of sugarcane and sugar beets.

S. 1159

At the request of Mr. HATFIELD, the names of the Senator from Ohio (Mr. GLENN) and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of S. 1159, a bill to amend the Export Administration Act of 1979 to extend the provisions relating to the export of domestically produced crude oil.

S. 1165

At the request of Mr. QUAYLE, the names of the Senator from Alabama (Mr. DENTON), and the Senator from California (Mr. WILSON) were added as cosponsors of S. 1165, a bill to provide for the continued operation of overseas schools for dependents of Department of Defense personnel by the Department of Defense.

S. 1244

At the request of Mr. PACKWOOD, the name of the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of S. 1244, a bill to amend title XVIII of the Social Security Act to provide for a program of health care for elderly individuals who require long-term care.

S. 1305

At the request of Mr. PACKWOOD, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1305, a bill to amend the Internal Revenue Code of 1954 to extend the energy tax credit for investments in certain classes of energy property, and for other purposes.

S. 1348

At the request of Mr. MOYNIHAN, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. DURENBERGER), the Senator from New Jersey (Mr. BRADLEY), the Senator from Connecticut (Mr. DODD), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Tennessee (Mr. BAKER), and the Senator from Washington (Mr. JACKSON) were added as cosponsors of S. 1348, a bill to authorize the President of the United States to present on behalf of Congress a specially struck gold medal to the widow of Roy Wilkins.

S. 1419

At the request of Mr. SARBANES, the name of the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 1419, a bill to amend title XVIII of the Social Security Act to retain the option of direct reimbursement for all providers under the medicare program.

S. 1469

At the request of Mr. SPECTER, the name of the Senator from Nebraska (Mr. EXON) was added as a cosponsor of S. 1469, a bill to amend title 18 of the United States Code relating to the sexual exploitation of children.

SENATE JOINT RESOLUTION 1

At the request of Mr. LONG, the names of the Senator from Nevada (Mr. LAXALT) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of Senate Joint Resolution 1, a joint resolution proposing an amendment to the Constitution of the United States with respect to fixing the compensation of Members of the Congress.

SENATE JOINT RESOLUTION 50

At the request of Mr. LEVIN, the name of the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of Senate Joint Resolution 50, a joint resolution designating the week beginning September 25, 1983, as National Adult Day Care Center Week.

SENATE RESOLUTION 122

At the request of Mr. MOYNIHAN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of Senate Resolution 122, a resolution expressing the sense of the Senate that the President should reduce imports of apparel so that imported apparel comprises no more than 25 percent of the American apparel market.

AMENDMENT NO. 1298

At the request of Mr. CRANSTON, the names of the Senator from Tennessee (Mr. SASSER) and the Senator from Nebraska (Mr. EXON) were added as cosponsors of Amendment No. 1298 intended to be proposed to S. 578, a bill to amend title 38, United States Code, to provide for adult day health care services for veterans, to authorize the Veterans' Administration to administer a community residential care program, to establish a presumption of service connection for former prisoners of war suffering from dysthymic disorder and to revise and clarify eligibility for reimbursement of expenses of travel for Veterans' Administration health care.

SENATE CONCURRENT RESOLUTION 45—RELATING TO THE "BLACKSPOT POLICY" IN SOUTH AFRICA

Mr. GLENN submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 45

Whereas the Government and the people of the United States have recognized inherently and innately, as a natural extension of this Nation's founding principles and objectives, the rights of property owners and of their descendants to possess and occupy land which they have lawfully acquires and maintained;

Whereas violations of these rights within or outside the United States are considered a flagrant abuse of basic assumptions governing the conduct of civilized societies and cannot be condoned by the people or the Government of the United States;

Whereas the Republic of South Africa is systematically and forcibly removing millions of black South Africans from land they owned and farmed for generations, stripping them of their citizenship, and relocating them in racially segregated communities, in violation of the United Nations Charter and the Universal Declaration of Human Rights;

Whereas living conditions in the new black "homelands" are grossly inferior to those enjoyed by white South Africans, for example (1) there is only one doctor for every 400,000 people in the black "homelands", while white South Africans have a doctor for every 350 people, (2) the infant mortality rate in the black "homelands" is 282 per 1,000 births, while in white South Africa the infant mortality rate is 12 per 1,000 births;

Whereas the "blackspot" policy toward blacks prompted Saul Mkhize to oppose the Republic of South Africa's attempts to force him to surrender land his family had owned for three generations;

Whereas this policy moved Saul Mkhize to write South African Prime Minister Botha stating, "We do not wish to be rebellious in any way, but only to continue to live our lives in our own environment."; and

Whereas this policy led to the shooting death of Saul Mkhize by the security police of the Republic of South Africa:

Now, therefore, be it resolved by the Senate, (the House of Representatives concurring), that it is the sense of the Congress that:

(1) the Republic of South Africa should comply with internationally recognized human rights, the UN Charter and its Convention on Human Rights by ending the "blackspot" policy and allowing relocated South Africans to remain in or return to their legally acquired land and residences;

(2) the United States should continue its policy of not recognizing the sovereignty or independence of the so-called "homelands";

(3) at such times that "homeland" officials apply for visas and passports for travel to the United States, the United States should deny travel to these officials under a "homelands" visa;

(4) the President and his representatives should convey to the Republic of South Africa the Congress's concerns expressed in this resolution and

(5) the President should transmit a copy of this resolution to the Ambassador from the Republic of South Africa to the United States and to the Prime Minister of the Republic of South Africa.

Mr. GLENN. Mr. President, today I am submitting a Senate concurrent resolution expressing the sense of the Congress that the Republic of South Africa should cease its "blackspot" policy of removing black South Africans from their legally acquired land and residences and forcibly relocating them in desolate homelands. The spirit behind this concurrent resolution is embodied in the words of Saul Mkhize who was shot to death by the South African police while opposing the Government's attempt to force him to surrender land his family has owned for three generations.

We do not wish to be rebellious in any way, but only to continue to live our lives in our own enviroment.

The philosopher Rosseau wrote that,

The first man who, having fenced in a piece of land, said, "This is mine" * * * that man was the true founder of civil society.

Indeed, Americans have recognized this since the birth of the Republic and have solidified through law and through custom the rights of property owners to possess their lawfully acquired land. That the South African Government has chosen to violate these tenets with respect to its black citizens should not surprise us but neither should we stand idly by and ignore an outrageous abuse of human rights and human dignity which is directed against one racial group. The desolate homelands to which black South Africans are banished are monuments to the callousness of apartheid. In these isolated areas, black South Africans, stripped of their citizenship, struggle to live without electricity, transportation, basic medical treatment, or economic opportunities to achieve self-sufficiency. The

"blackspot"/"homelands" policy of the South African Government is a most repugnant manifestation of apartheid and I hope my colleagues will join me in speaking out forcefully against it.

AMENDMENTS SUBMITTED

SUPPLEMENTAL APPROPRIATIONS, 1983

ARMSTRONG (AND HART) AMENDMENT NO. 1387

Mr. ARMSTRONG (for himself and Mr. HART) proposed an amendment to the bill (H.R. 3069) making supplemental appropriations for the fiscal year ending September 30, 1983, and for other purposes; as follows:

On page 35, between lines 5 and 6, insert the following:

"In accordance with the repayment contract for the Dallas Creek participating project of the Upper Colorado River storage project, entered into January 14, 1977, and entitled "Re-Payment Contract Between the United States of America and the Tri-County Water Conservancy District", the portion of the costs of such project, including interest on construction costs, allocated to municipal and industrial use which exceeds $38,000,000 shall not be reimbursable.".

WALLOP (AND SIMPSON) AMENDMENT NO. 1388

Mr. WALLOP (for himself and Mr. SIMPSON) proposed an amendment to the bill, H.R. 3069, supra, as follows:

At the appropriate place, insert the following:

SEC. Notwithstanding the provisions of Section 113, Public Law 97-323, funds appropriated by such public law for study, planning, design, architect and engineer services for the Air Force are available for design of site-specific facilities for the MX Missile system.

MELCHER (AND OTHERS) AMENDMENT NO. 1389

Mr. MELCHER (for himself, Mr. BOREN, Mr. BAUCUS, Mr. ZORINSKY, Mr. JEPSEN, Mr. RANDOLPH, Mr. EXON, Mr. BURDICK, and Mr. GRASSLEY) proposed an amendment to the bill, H.R. 3069, supra, as follows:

At the end of the bill, add the following new section:

For an additional amount for Soil Conservation for the fiscal year 1983, $34,500,000 to remain available until expended, of which $10,000,000 shall be for Resource Conservation and Development, $3,900,000 shall be for the Great Plains Conservation Program, $10,000,000 shall be for Soil Conservation Matching Grants, $10,000,000 for the Agricultural Conservation Program, $600,000 shall be for the Special Areas Conservation Program: *provided further*, that $100,000 from the Special Areas Conservation Program be made available for the "MIDAMERICA" program.

INOUYE (AND MATSUNAGA) AMENDMENT NO. 1390

Mr. INOUYE (for himself and Mr. MATSUNAGA) proposed an amendment to the bill H.R. 3069, supra; as follows:

On page 3, between lines 16 and 17, insert the following new section:

GENERAL PROVISION

None of the funds appropriated by this or any other Act may be used to relocate the Hawaii State office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii.

BUMPERS (AND PRYOR) AMENDMENT NO. 1391

Mr. BUMPERS (for himself and Mr. PRYOR) proposed an amendment to the bill H.R. 3069, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . Upon request of the City of Pine Bluff, Arkansas, the Secretary of Commerce shall authorize such city to lease to any person the banquet and kitchen facilities of the Pine Bluff Convention Center, without affecting the Federal assistance provided by a grant under the Public Works Employment Act of 1976 (project number 01-51-00020) or any other law, if such transfer documents provide for the operation of such facilities as kitchen and banquet facilities for at least 25 years after the date of such transfer.

MOYNIHAN (AND OTHERS) AMENDMENT NO. 1392

Mr. MOYNIHAN (for himself, Mr. MATSUNAGA, Mr. RIEGLE, Mr. BRADLEY, Mr. BENTSEN, Mr. KENNEDY, Mr. EAGLETON, Mr. LAUTENBERG, Mr. INOUYE, and Mr. GLENN) proposed an amendment to the bill H.R. 3069, as follows:

On page 69, after line 23, add the following:

HEALTH CARE BENEFITS FOR THE UNEMPLOYED

For payments for health care benefits for the unemployed, $225,000,000, to be available only if a program is enacted into law providing for such benefits under title XX of the Social Security Act or under the Public Health Service Act. Any part of such amount not obligated prior to October 1, 1983 shall remain available for obligation in fiscal year 1984.

QUAYLE AMENDMENT NO. 1393

Mr. QUAYLE proposed an amendment to the bill H.R. 3069, supra; as follows:

At the appropriate place in the bill, insert the following:

AVAILABILITY OF FUNDS FOR DEVELOPING PARKS AND RECREATION AREAS

Notwithstanding any other provision of law or any rule or regulation, any amount appropriated by Public Law 98-8 under the heading "DEVELOPING PARKS AND RECREATION AREAS" shall remain available for grants for projects involving the planting of trees or shrubs until December 31, 1983.

WILSON (AND CRANSTON) AMENDMENT NO. 1394

Mr. WILSON (for himself and Mr. CRANSTON) proposed an amendment to the bill H.R. 3069, supra; as follows:

At the end of the bill insert the following new section:

SEC. —. Upon request of the City of Oakland, California, the Secretary of Commerce shall atuhorize such City to sell or lease to any person the George P. Scotlan Memorial Convention Center building, without affecting the Federal assistance provided under the Public Works and Economic Development Act of 1965 (project numbered 07-01-02471), or any other law, if—

(1) such sale or lease provides, for the operation of such facilities as a Convention Center for at least sixty-five years after such transfer; and

(2) in the event of the sale of such building, the repayment of any grant made pursuant to the Public Works and Economic Development Act of 1965 shall—

(A) be made over a period of thirty years;

(B) provide that no payments shall be made for the first fifteen years of such period; and

(C) be made in equal annual installments over the last fifteen years of such period.

BUMPERS (AND MATTINGLY) AMENDMENT NO. 1395

Mr. BUMPERS (for himself and Mr. MATTINGLY) proposed an amendment to the bill H.R. 3069, supra; as follows:

On page 72, between lines 9 and 10, insert the following:

GENERAL PROVISION

SEC. 101. (a) Section 111(a)(2) of the Elementary and Secondary Education Act of 1965 is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D) and by inserting after subparagraph (A) the following:

"(B) The grant which a local educational agency is eligible to receive under this subpart for a fiscal year shall be further adjusted by dividing the amount of the grant determined under subparagraph (A) by the quotient obtained by dividing the per capita income for the State in which the local educational agency is located by the per capita income for all the States (exclusive of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands), except that the quotient in no case shall be less than .85 nor more than 1.15. The adjustment required by this subparagraph shall not apply to the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

(b) Section 111(a)(2)(C) of such Act (as redesignated by subsection (a)) is amended by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraphs (A) and (B)".

(c) Section 111(a) of such Act is amended by inserting "(A)" after "(4)" and by adding at the end thereof the following:

"(B) For the purposes of this subsection, the term 'per capita income' means with respect to a fiscal year, the total personal income in the calendar year ending in the second fiscal year preceding the fiscal year for which the determination is made, divided by the population of the area concerned

in the calendar year preceding such calendar year (or if not available the year for which the most recent satisfactory data are available from the Department of Commerce).".

WEICKER AMENDMENT NO. 1396

Mr. WEICKER proposed an amendment to the bill H.R. 3069, supra; as follows:

Strike all after page 1, line 3, and insert in lieu thereof the following:

SEC. 101. (a) Section 111(a)(2)(A) of the Elementary and Secondary Education Act of 1965 is amended—

(1) by striking out "In" and inserting in lieu thereof "Subject to subparagraph (B), in";

(2) by striking out "80 per centum" each place it appears and inserting in lieu thereof "70 per centum"; and

(3) by striking out "120 per centum" each place it appears and inserting in lieu thereof "110 per centum".

(b) Section 111(a)(2) of such Act is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following:

(B)(i) The aggregate amount of grants determined under subparagraph (A) for all local educational agencies located in a State for each fiscal year shall not be less than one-half of 1 per centum of the amount determined for all local educational agencies under subparagraph (A) for such fiscal year. The amount of the increase in any grant which a local educational agency in any State shall be eligible to receive by reason of the application of this division for each fiscal year shall be determined on a pro rata basis.

"(ii) The aggregate amount of grants which all local educational agencies located in a State are eligible to receive under this subpart may not be increased for any fiscal year in an amount which is greater than 50 per centum of the amount which all such agencies in that State received under this subpart in the fiscal year preceding the fiscal year for which the determination is made.".

(c) Section 111(a)(2)(C) of such Act (as redesignated by subsection (b)) is amended by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraphs (A) and (B)".

(d) Section 111(a)(2)(D) of such Act (as redesignated by subsection (b)) is amended by striking out "32 per centum" in clause (ii) and inserting in lieu thereof "28 per centum".

(e) The amendments made by this section shall take effect with respect to the school year 1983-1984 and thereafter.

BUMPERS AMENDMENT NO. 1397

Mr. BUMPERS proposed an amendment to the bill H.R. 3069, supra; as follows:

On page 71, between lines 22 and 23, insert the following:

ELEMENTARY AND SECONDARY EDUCATION

For an additional amount for subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965, $103 million to be available for the payment of grants to local educational agencies located in a State in which the aggregate amount of grants determined for such agencies from amounts appropriated for fiscal year 1983 prior to the date of enactment of this Act is less than the amount of grants determined for the local educational agencies in that State from amounts appropriated for fiscal year 1982 by reason of the application of the 1980 Census data in order to increase the amount for local educational agencies in each such State to the amount determined for that State for fiscal year 1982: *Provided*, That the amount of the increase in any grant which a local educational agency in any State shall be eligible to receive by reason of the application of this paragraph shall be determined on a pro rata basis.

It is the intention of the Congress that for each fiscal year ending prior to September 30, 1987, an additional amount will be appropriated, as necessary, for the payment of grants to local educational agencies in all States subject to the provisions of the previous paragraph in order to increase the amount for local educational agencies in each such State for each such fiscal year to the amount determined for that State for fiscal year 1982.

BUMPERS AMENDMENT NO. 1398

Mr. BUMPERS proposed an amendment to the bill H.R. 3069, supra, which was subsequently modified; as follows:

On page 71, between lines 22 and 23, insert the following:

ELEMENTARY AND SECONDARY EDUCATION

For an additional amount for subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965, such sums as may be necessary, but not to exceed $40 million to be available for the payment of grants to local educational agencies located in a State in which the aggregate amount of grants determined for such agencies from amounts appropriated for fiscal year 1983 prior to the date of enactment of this Act is less than 95 percent of the amount of the grants for that State from amounts appropriated for fiscal year 1982 by reason of the application of the 1980 Census data in order to increase the amount for local educational agencies in each such State to the amount determined for that State for fiscal year 1982: *Provided*, That the amount of the increase in any grant which a local educational agency in any State shall be eligible to receive by reason of the application of this paragraph shall be determined on a pro rata basis.

It is the intention of the Congress that for each fiscal year ending prior to September 30, 1987, an additional amount will be appropriated, as necessary, for the payment of grants to local educational agencies in all States subject to the provisions of the previous paragraph in order to increase the amount for local educational agencies in each such State for each such fiscal year to the amount determined for that State for fiscal year 1982.

INOUYE (AND MATSUNAGA) AMENDMENT NO. 1399

Mr. INOUYE (for himself and Mr. MATSUNAGA) proposed an amendment to the bill H.R. 3069, supra; as follows:

On page 10, after line 24, insert the following: Commission on Wartime Relocation and Internment of Civilians

SALARIES AND EXPENSES

Funds appropriated under the heading of Commission on Wartime Relocation and Internment of Civilians in Public Law 97-377 (96 Stat. 1877) shall remain available until September 30, 1983.

HEINZ (AND OTHERS) AMENDMENT NO. 1400

Mr. HEINZ (for himself, Mr. WEICKER, Mr. SARBANES, Mr. CRANSTON, Mr. MOYNIHAN, Mr. BOSCHWITZ, Mr. JEPSEN, Mr. WARNER, Mr. COHEN, Mr. GRASSLEY, Mr. LEVIN, and Mr. DURENBERGER) proposed an amendment to the bill H.R. 3069, supra; as follows:

At the end of the bill add the following new title:

TITLE V—SOCIAL SECURITY DISABILITY PROVISIONS

REVISION OF REGULATORY CRITERIA RELATING TO MENTAL IMPAIRMENTS

SEC. 501. (a) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall revise the criteria embodied under the category "Mental Disorders" in the "Listing of Impairments" in effect on the date of the enactment of this Act under appendix 1 to subpart P of part 404 of title 20 of the Code of Federal Regulations. The Secretary shall also revise the methods and procedures for assessing the residual functional capacity of individuals having mental impairments. The revised listings and residual functional capacity assessments shall individually and together be designed to realistically evaluate the ability of a mentally impaired individual to engage in substantial gainful activity in a competitive workplace environment. The revised listings and assessments required by this subsection shall be completed within 6 months after the date of the enactment of this act.

(b)(1) The Secretary shall appoint a panel of outside experts to make recommendations with respect to the revisions to be made in accordance with subsection (a), consistent with the requirements of titles II and XVI of the Social Security Act for individualized determinations of disability.

(2) The panel shall consist of individuals who are experts in the field of mental health, and shall include at least one psychiatrist, one rehabilitation psychologist, one medical social worker, and one vocational expert.

(3) Members of the panel shall be appointed without regard to the requirements of title 5, United States Code, and each member of the panel not otherwise in the employ of the United States Government shall receive the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which such member is actually engaged in the performance of the duties of the panel. Each member of the panel shall be allowed travel expenses in the same manner as an individual employed intermittently by the Federal Government under section 5703 of title 5, United States Code.

(c)(1) Until such time as revised criteria have been established by final regulation in accordance with subsection (a), no continuing eligibility reviews shall be carried out under title II or XVI of the Social Security Act with respect to any individual previously determined to be under a disability by reason of a mental impairment.

(2) Paragraph (1) shall not apply in any case where the Secretary determines that

fraud was involved in the prior determination, or where an individual is engaged in substantial gainful activity.

(d)(1) Any disability determination or reconsideration or appeal of such determination, and any reconsideration or appeal of a continuing eligibility review, made under title II or title XVI of the Social Security Act after the date of the enactment of this Act and prior to the date on which revised criteria are established by final regulation in accordance with subsection (a), shall be redetermined by the Secretary as soon as feasible after the date on which such criteria are so established, applying such revised criteria.

(2) In the case of a redetermination under paragraph (1) of a prior action which found that an individual was not under a disability, if such individual is found on redetermination to be under a disability, such redetermination shall be applied as though it had been made at the time of such prior action.

(3) Any mentally impaired individual who was found to be not disabled pursuant to an initial disability determination or continuing eligibility review between March 1, 1981 and the date of the enactment of this Act, and who reapplies for benefits under title II of the Social Security Act, shall, only for purposes of determining whether the special insured status for disability is met, be deemed to have reapplied as of the time of the prior determination or continuing eligibility review. Reapplications under this paragraph must be submitted within one year after the date of the enactment of this Act.

REQUIREMENT FOR EVALUATION BY PSYCHIATRIST OR PSYCHOLOGIST

SEC. 502. (a) Section 223(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(7) In any case in which an individual alleges to be under a disability by reason of a severe mental impairment (as defined by the Secretary), the determination of whether such individual is under a disability shall be made only after the Secretary has demonstrated that a qualified psychiastrist or psychologist has completed the medical portion of the sequential evaluation and residual functional capacity assessment.".

(b) Section 1614(a)(3) of such Act is amended by adding at the end thereof the following new subparagraph:

"(C) In any case in which an individual alleges to be under a disability by reason of a severe mental impairment (as defined by the Secretary), the determination of whether such individual is under a disability shall be made only after the Secretary has demonstrated that a qualified psychiatrist or psychologist has completed the medical portion of the sequential evaluation and residual functional capacity assessment.".

(c) The amendments made by this section shall apply with respect to applications filed for benefits under title II or XVI of the Social Security Act on or after the date of the enactment of this Act.

DURENBERGER AMENDMENT NO. 1401

Mr. DURENBERGER proposed an amendment to the bill H.R. 3069, supra; as follows:

On page 55, after line 12, insert the following:

(4) A new section 6907 is added as follows:

"(a) Notwithstanding any other provision of this chapter, a State may enact legislation which requires that any payments which would be made to units of general local government pursuant to this Chapter be reallocated and redistributed in whole or part to other smaller units of general purpose government that provide general governmental services and contain the entitlement lands within their boundaries.

"(b) Upon enactment of legislation by a State, described in Subsection (a), the Secretary shall make one payment to such State equalling the aggregate amount of payments which he otherwise would have made to units of general local government within such State pursuant to this Chapter. It shall be the responsibility of such State to make any further distribution of the payment pursuant to subsection (a).".

KENNEDY AMENDMENT NO. 1402

Mr. KENNEDY proposed an amendment to the bill H.R. 3069, supra; as follows:

On page 67, between lines 17 and 18, insert the following:

SUMMER YOUTH EMPLOYMENT AND TRAINING

For an additional amount for part B of title II of the Job Training Partnership Act, relating to summer youth employment and training programs, $30,000,000.

HATFIELD AMENDMENT NO. 1403

Mr. HATFIELD proposed an amendment to the bill H.R. 3069, supra; as follows:

On page 70, line 22, before the period insert a comma and the following: "to remain available until September 30, 1984".

On page 87, line 23, strike, "Public Law 97-424" and insert in lieu thereof "Urban Mass Transportation Act of 1964 as amended."

HATFIELD AMENDMENT NO. 1404

Mr. HATFIELD proposed an amendment to the bill H.R. 3069, supra; as follows:

In lieu of the Thurmond amendment numbered 1386, at the end of page 30, insert the following: The project for Cooper River, Charleston Harbor, South Carolina, authorized by the River and Harbor Act of 1968, Public Law 90-483, approved August 13, 1968, is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to install a closure structure in the diversion canal between Lake Marion and Lake Moultrie and to construct such measures as the Chief of Engineers determines necessary to improve the seismic stability of the Pinopolis West Dam on the Cooper River, at an estimated cost of $22,000,000: *Provided*, That nothing in this paragraph shall waive any requirements under the Federal Power Act of 1935 (49 Stat. 847): *Provided further*, That in addition to such sums as are otherwise appropriated by this Act there are appropriated an additional $2,000,000, to remain available until expended, for "Construction, general, Corps of Engineers—Civil", for engineering and design studies in connection with the project authorized by this paragraph.

HUMPHREY AMENDMENT NO. 1405

Mr. HUMPHREY proposed an amendment to the bill H.R. 3069, supra; as follows:

On page 30, lines 5 and 6, strike out "and construct and undertake".

On page 30, line 11, strike out "at a currently estimated cost of $26,500,000,".

On page 30, beginning with "Expenditures" on line 13, strike out all through the period on line 20.

HUMPHREY AMENDMENT NO. 1406

Mr. HUMPHREY proposed an amendment to the bill H.R. 3069, supra; as follows:

On page 125, between lines 7 and 8, insert the following:

SEC. — Expenditure or obligation of funds appropriated by this act is restricted to programs for which a formal authorization exists.

EMERGENCY JOB TRAINING FOR VETERANS

SIMPSON (AND CRANSTON) AMENDMENT NO. 1407

Mr. SIMPSON (for himself and Mr. CRANSTON) proposed an amendment to the bill (S. 1033) to amend title 38, United States Code, to establish an emergency job training program for wartime veterans; as follows:

On page 15, between lines 14 and 15, insert "TITLE I—VETERANS' EMERGENCY JOB TRAINING PROGRAM".

On page 15, line 15, strike out "SEC. 2" and insert in lieu thereof "SEC. 101".

On page 32, line 20, strike out "SEC. 3" and "Act" and insert in lieu thereof "SEC. 102" and "title", respectively.

Add at the end of the bill the following new title:

TITLE II—VETERANS' ADMINISTRATION REORGANIZATION

SEC. 201. The requirements of section 210(b)(2)(A) of title 38, United States Code, shall not apply to the planned administrative reorganization at the Veterans' Administration Rehabilitation Engineering Center (hereinafter in this section referred to as "VAREC") at 252 Seventh Avenue, New York, New York, involving—

(1) the transfer to the Veterans' Administration Medical Center, New York, of 24 full-time equivalent employees from the VAREC Special Clinic team, 5 full-time equivalent employees from the VAREC Restoration Laboratory, and 4 full-time equivalent employees from the VAREC Research and Development Service;

(2) the administrative reassignment from the VAREC of 8 employees (in addition to those described in clause (1)) who are orthotists or prosthetists and whose work stations are at nearby Veterans' Administration medical centers to those medical centers; and

(3) the reorganization of elements of the VAREC not providing direct patient services so as to continue them at 252 Seventh Avenue as the "Veterans' Administration Prosthetic Technology and Information

Center", under the direct supervision of the Director, Prosthetic and Sensory Aids Service, Department of Medicine and Surgery, Veterans' Administration Central Office.

NOTICE OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, the Senate Committee on Governmental Affairs will hold a nomination hearing for Robert Morris to be Deputy Director of the Federal Emergency Management Agency on Wednesday, June 22, at 2 p.m. in room SD-342 of the Dirksen Senate Office Building. For further information, please contact Ms. Margaret Hecht at 224-4751.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Public Lands and Reserved Water to consider the following bills: S. 482, to provide relief for certain desert land entrymen in the State of Idaho; S. 508, to exempt entities receiving financial assistance from the Rural Electrification Administration from fees under the Federal Land Policy and Management Act of 1976; S. 620, to amend Public Law 89-668 relating to the Pictured Rocks National Lakeshore to require the development of a local land use plan and zoning regulations for the inland buffer zone; S. 600, to amend Public Law 95-244; S. 598, to authorize a land conveyance from the Department of Agriculture to Payson, Ariz.; S. 807, to amend the boundaries of the Cumberland Island National Seashore; S. 864, to amend the Volunteers in the Parks Act of 1969, and for other purposes; and S. 1160, to authorize Douglas County of the State of Nevada to transfer certain land to a private owner.

The hearing will be held on Monday, June 27, beginning at 10 a.m. in room SD-366 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, Subcommittee on Public Lands and Reserved Water, U.S. Senate, Washington, D.C. 20510.

For further information regarding this hearing you may wish to contact Mr. Tony Bevinetto of the subcommittee staff at 224-5161.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. HEINZ. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 15, at 10 a.m., to hold a hearing on United States-Soviet relations.

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

Mr. HEINZ. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 15, at 4 p.m., to hold a top secret executive session briefing on the revised START proposal.

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

COMMITTEE ON THE JUDICIARY

Mr. HEINZ. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, June 15, in order to receive testimony on the following nominations:

Hector M. Laffitte, of Puerto Rico, to be U.S. District Judge for the District of Puerto Rico;

Francis M. Mullen, of Virginia, to be Administrator, Drug Enforcement Administration.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, June 15, at 4 p.m., to hold a markup on proposed changes in the dairy, tobacco, and target-price programs.

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

SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Pollution, of the Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, June 16, at 2 p.m., to mark up the amendments to the Clean Water Act.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 16, at 10 a.m., to hold a hearing on foreign diplomats.

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

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 16, at 2 p.m., to hold a hearing on United States-Soviet relations.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 16, at 10 a.m., in closed session to receive a briefing on intelligence matters.

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

ADDITIONAL STATEMENTS

TERRIBLE JUNE DAYS

● Mr. ZORINSKY. Mr. President, today marks the 43d anniversary of the "Terrible June Days" in Lithuania. Forty-three years ago, under the pretext of an imminent Nazi threat, the Soviet Union invaded Lithuania as it began to draw the infamous Iron Curtain on the Baltic States.

The dawn of Russification in Lithuania initiated a chapter of violent oppression as hideous as any in history. During a 4-day period in 1941, June 14 to 18, over 34,000 Lithuanian men, women, and children were deported or liquidated. Over the decade spanning the years 1941 to 1951, some 700,000 Lithuanians were victimized under a Soviet policy of virtual genocide.

Though the terrorism of the Stalin era has subsided, the more sophisticated methods of domination by terror practiced by today's Soviet regime are every bit as thorough and brutal as those under Stalin. Through four succeeding decades the Soviet strangle hold applied during the "Terrible June Days" has never slackened. Indeed, the rise of Yuriy Andropov to leadership in the U.S.S.R. does not bode well for Lithuania. As head of the KGB, Andropov was an architect of the more sophisticated methods of terrorism employed today by the Soviet Union. If anything, the strangle hold on Lithuania is likely to tighten under the reign of the Andropov regime.

And so the future outlook for Lithuania is as grim as the very memory which we pause to observe today. There is, however, cause for hope on this solemn day of remembrance. The Lithuanians are a courageous people, and contemporary Lithuanians are the heirs of many generations of historical and cultural heritage. The tradition of the Lithuanian nation and culture predates the U.S.S.R. by centuries, and that tradition will endure long after the Soviet epoch in history has passed.

The Soviet Union has sought to extinghish all vestiges of Lithuanian tradition in the effort to completely absorb Lithuania into the U.S.S.R. However, the severity of Soviet domination has in fact steeled the resolve of Lithuanians the world over to embrace and fiercely defend their identity as Lithuanians. People of all nation-

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alities draw strength from the example of the Lithuanian people. In the face of four decades of incredible persecution, Lithuanians have refused to deny their bloodlines, their religious faith, their rich tradition.

The legacy of the Lithuanian struggle is nothing short of heroic, and it deserves the support of free people everywhere. It is the United States to which Lithuanians throughout the world look for leadership in the ongoing refusal to officially acknowledge the incorporation of Lithuania into the U.S.S.R. As a paragon of freedom among the nations of the world, the United States must champion the cause of Lithuania in its bid to emerge from the pall of Iron Curtain domination. With the moral support of the United States the Lithuanian people will persevere in their struggle for independence, and, despite the era of oppression at the hands of the U.S.S.R., Lithuania's long and proud tradition will survive.●

B-1 BOMBER

● Mr. GOLDWATER. Mr. President, recently there has been a substantial amount of discussion about the B-1 bomber aircraft as we move into consideration of this year's defense budget. As my colleagues are aware, I have long been a strong supporter of the B-1 bomber and felt that we should have undertaken production several years ago. Nevertheless, that is water over the dam. Now we are moving toward production and the program promises to be every bit as valuable as I had hoped. Nonetheless, some opponents of the B-1 have insisted that Stealth technology is becoming rapidly available and will be so useful as to make the B-1 production unnecessary. Recently I read an article in the May issue of Defense Electronics magazine concerning Stealth. Although there are many useful points in this article, this much is clear. The development of Stealth has not overtaken current technology. Certain Stealth techniques will be valuable and those, in fact, will be included in the production of the B-1.

Mr. President, I ask that the entire article entitled "Stealth Takes Shape" from the May 1983 issue of Defense Electronics magazine be printed in the RECORD at this point in my remarks and I urge my colleagues to read this article.

The article follows:

[From the Defense Electronics Magazine, May 1983]

STEALTH TAKES SHAPE

(By James B. Schultz)

The Air Force is rapidly developing stealth technologies that will significantly reduce bomber and fighter aircraft and cruise missile susceptibility to detection by Warsaw Pact radars and sensors.

Application of radar-absorbing and deflecting materials, advanced ECM systems, radical aerodynamic designs, and low IR signature engines will increase aircraft survivability against an improved Soviet air defense system that includes a look-down/shoot-down capability.

Pentagon officials say stealth techniques will first be introduced in the USAF/Rockwell B-1B bomber and advanced cruise missile program, and later in advanced strategic bomber and fighter aircraft that may be operational by the early 1990's.

According to Air Force spokesman Lieut. Col. Don Brownlee, stealth, or low-observable characteristics, fall into three categories, all aimed at reducing airframe cross section detection from visual and radar systems.

They involve:

Airframe shaping that deflects radar signals.

Use of composite materials that absorb radar signals.

Electronic countermeasures (ECM) that jam or spoof enemy radars and weapons.

New methods of "negating, neutralizing, or confusing the enemy" are also considered part of the overall stealth technology program, Brownlee said. Such techniques may likely include the use of high-energy laser and particle beam weapons to kill Soviet interceptors, and advanced highpower ECM systems to locate and jam enemy radars and guided weapons.

The introduction of stealth technology will be made with a two-bomber plan that will amount to production of 100 B-1B long-range combat aircraft (LRCA), which will be operational in 1986 at a cost of some $20 billion, and 110 stealth, or advanced technology bomber (ATB) aircraft, costing more than $30 billion. The ATB fleet could be operational as early as 1991, sources said.

RADAR CROSS SECTION CUT

Several stealth features are built into the latest version of the B-1. The swing wing aircraft exhibits a radar cross section of less than one square meter when measured head-on, a dramatic improvement over the B-1A, which has a 10-square-meter cross section, and the aging B-52, which produces a signature of more than 100 square meters.

Designers achieved the single-square-meter threshold by removing the EW antenna spine on the back of the bomber, which reflected radar signals, smoothing out flight control leading edges, modifying engine intake ducts, and integrating a highly improved defense avionics suite (the AN/ALQ-161) that can automatically detect and jam enemy radars and missiles (See DE, Jan. 1983, p. 56).

The antenna spine was removed from the bomber as part of an Air Force contract awarded ot Eaton/AIL to intergrate the tail warning system directly into the AN/ALQ-161. Many of the cables and connections on the previous tail warning system, the Westinghouse AN/ALQ-153, were mounted in the bomber's dorsal spine.

Another major upgrade to the B-1B is the Westinghouse phased-array antenna, which employs stealth technologies and replaces the B-1A's dish-shaped radar. The antenna is a modified version of the APG-66 radar on the F-16, and is used for following, low-altitude terrain, and general navigation.

Both Northrop and a team comprised of Rockwell and Lockheed are reportedly developing preproduction models of an advanced technology bomber. While neither company has actually flown an aircraft, wind tunnel tests and target penetration simulations have been conducted since 1980. "We're seeing radar cross sections of less than one-millionth of a square meter. That's incredibly small for a huge airplane," an engineer associated with the project said.

COMPOSITE MATERIALS

Air Force officials indicate ATB concept designs are noteworthy departures from conventional aircraft design and powerplants. Engineers are investigating development of delta wing aircraft made of composite materials that are lighter and stronger than titanium or steel, and do not reflect radar. Several materials are being considered, including carbon and fiberglass structures, fiber-reinforced graphite skins, and special paints that can absorb or deflect radar signals.

Boeing, under a $23 million USAF Wright Aeronautical Laboratory contract, is developing a set of graphite/epoxy composite wings for an F-111 that is expected to be structurally superior to metal because of a higher resistance to cracking and less sensitivity to fatigue. "Composites, however, are considered somewhat more sensitive than metals to extreme temperatures and high moisture environments," a Boeing engineer said. Although, he noted the graphite/epoxy wing should remain pliable to temperatures as low as minus 65 deg. Fahrenheit. Flight tests of the Boeing graphite/epoxy composite wing design are scheduled to start in September at Edwards AFB, CA.

Taking advantage of lessons learned from developing the B-1B, ATB designers will attempt to omit radar-reflecting edges and echo-producing engine nacelles slung under the aircraft wings. Existing concepts show aircraft with large, rounded leading edges, V-shaped delta wings, and engines that are integrated into the wing or fuslage section. Designers are also trying to eliminate the telltale vertical stabilizer by designing winglets or V-shaped tail sections that will give acceptable levels of stability while reducing the radar cross section. Instead of reflecting or absorbing radar signals, the stabilizer, at canted angles, will deflect them out and away from the aircraft.

"Next-generation aircraft will look smoother and be more aerodynamically sound," an industry source said.

Several sources said the ATB must exhibit good handling and produce minimal buffeting at low altitudes near Mach speeds. They say the bomber demonstrates its greatest stealth qualities in terrain hugging at altitudes under 200 ft. where Soviet radars are obscured by hills and other natural obstructions.

One Air Force artist's concept of an advanced bomber depicts a domino-shaped aircraft that flies at supersonic speeds using only two small, vertical stabilizers and twin nose-mounted fins for stability. A large wing would only be used for takeoffs, landings, and low-level flight, and then rotated 90 deg. where it would be locked in a conformal position on top of the aircraft's fuselage.

ENGINE MODIFICATIONS

Modifications to engine intake inlets and development of engines that use denser fuel and increase aircraft range, yet produce a cleaner exhaust, are also being researched. Newly designed intake ducts will incorporate a profound breakthrough in technology—zigzag tunnels. These ducts are designed to bounce radar signals back and forth inside the inlet instead of reflecting them back at the enemy radar.

Although the ATB would be designed to defeat ground-based and airborne threats, other weapon systems will be needed to eliminate Soviet space-based infrared sur-

veillance systems that can detect aircraft. Most Soviet radar and surveillance satellites operate at low altitudes well within the range of the U.S. air-launched ASTA interceptor.

STEALTH FIGHTER

Aside from developing a stealth bomber, the Air Force is pursuing research on a highly classified stealth fighter being developed by Lockheed. Lockheed, which has extensive experience in high-altitude, hard-to-detect aircraft by virtue of its successful U-2 and SR-71 reconnaissance planes has reportedly test-flown three prototypes. Reports indicate the 20,000-lb. class fighters have been flown from airfields in both the Nevada desert and at Eielson AFB, AK. Although Lockheed officials declined to discuss the subject, Air Force sources said two fighters have crashed since flight tests began in 1979. They say neither crash was in any way related to stealth technology.

One Pentagon official said the fighter-size stealth aircraft is "more a test bed for future ATB designs" than a preproduction aircraft. The fighter apparently relies heavily on radar-absorbing and deflecting techniques achieved through use of composite materials. One report suggests the aircraft uses Fibaloy, a composite material (developed by Dow Chemical Company), which has glass fibers woven into a plastic base. Such a design would make the airframe strong, light, and small enough to be tucked inside a transport plane.

ADVANCED CRUISE MISSILE PROGRAM

Last February, the Air Force abruptly cancelled further funding for the Boeing AGM-86B air-launched cruise missile, capping production at 1,499 missiles, in favor of a new stealth, or advanced, cruise missile. Advancements in the Soviets' lookdown radars and development of ALCM stealth technology were leading factors in reducing the planned buy of 3,418 USAF/Boeing ALCM's, officials said.

The ACM will use technology begun in 1980 under a Defense Advanced Research Projects Agency (DARPA) program called Teal Dawn. Sometime this spring, the Air Force is expected to award an initial development contract to one or more contractors competing for the ACM. The competitors are Boeing, Lockheed, and General Dynamics, which is the prime contractor for the ground- and sea-launched versions of the cruise missile.

DARPA RESEARCH

Other reports indicate the DOD is also considering development of a "black curtain program" stealth cruise missile that would use a Williams International engine made of plastic parts. For the last several years, DARPA has evaluated advanced cruise missile engine designs that have lower fuel consumption, greater range, and increased thrust over the current F-107 cruise missile engine.

One such engine is a compound-cycle, turbofan engine with a two-stroke, high-speed diesel engine and an eccentric engine, consisting of a three-spool turbofan with the third spool mounted off-axis to the other two spools. A recuperative engine that uses a coated-carbon material for fabricating high temperature subcomponents is also under investigation by DARPA. Both engines would apparently boost the ACM range to 6,000 miles, compared to 1,500 miles for the AGM-86B. If that standoff range were achieved, the Pentagon could conceivably launch the missile from within the U.S. at targets inside the Soviet Union. Such a capability would eliminate the need to forward-base ground-launched cruise missiles in Europe.

To put stealth in the ACM, contractors are studying several candidate options. Most are focused on altering the missile's external design to reduce its radar signature, developing an advanced guidance system, permitting the missile to penetrate Soviet airspace at low altitude, and evaluating the use of on-board ECM that would allow the missile to detect and evade enemy radars and missiles.

An artist's concept generated by the Air Force shows a missile that more closely resembles flying wings than the current conventional-styled AGM-86B. Presumably, the added dimensions would provide greater lifting capacity, reducing engine output while increasing range.

Although the Soviet air defense radar system has been improved over the past several years, Pentagon officials express confidence that the slow-flying ACM will get to its target. DARPA has conducted a series of cruise missile penetration evaluations to validate the radar masking, clutter, propagation data, and IR background data over target areas.

According to a DARPA FY-1983 summary description report, the data will be used to modify and refine analytical models of defensive system performance and to predict the ACM's survivability rate.

To guide the ACM to its target over such a long distance, the Air Force could place a small Navstar GPS satellite receiver on board. GPS signals could be received continuously throughout the mission, giving the missile a 16-meter accuracy. A combined terminal homing/inertial navigation system that would allow the missile to maneuver around Soviet air defense zones is also being studied for use in the ACM.

The Air Force has not publicly stated how many ACM missiles it intends to purchase; however, some industry analysts are predicting the service will want to buy somewhere between 1,500 and 3,000 missiles over several years, starting in the mid-1980's●

EXPORT OF ALASKAN OIL TO JAPAN

● Mr. LEVIN. Mr. President, I am a cosponsor of S. 1159, extending the prohibition contained in the Export Administration Act that prevents the export of Alaskan oil. I would like to briefly outline why I have supported this legislation.

When the Alaskan pipeline was first proposed, it was argued that the pipeline should be routed to bring oil to the Midwest, thereby assuring that supplies of Alaskan oil would be distributed throughout the United States. Unfortunately, this was not done and the export prohibition was enacted so that this great resource would be available throughout our country. This policy is in the best interests of the United States.

Because of the great distance that Alaskan oil now travels, however, we should remain open to more efficient alternatives. I have talked with several of my colleagues about alternatives to the prohibition and many of us believe that consideration should be given to modifying the prohibition under certain circumstances. If the Japanese made major trade concessions, I would consider supporting modifications to increase the flexibility of the statutorily defined criteria for allowing the export of Alaskan oil to Japan. However, because of our current trade imbalance with Japan and their present commitment to policies that allow them to compete unfairly with us, I cannot at the present time support any proposal that would lower their fuel prices and thereby increase their trading advantage. If they would agree to major changes in their trade policies, I would consider proposals to allow the export of some Alaskan oil to Japan.●

AMERICA'S VIEWS ON U.S. MILITARY

● Mr. GOLDWATER. Mr. President, recently there appeared in the Christian Science Monitor a short article by Lucia Mouat entitled, "America's Views on United States Military." What this article does is to bring into correct focus the new attitude of the American people toward the military as compared to other institutions existing in this country.

It is interesting, I think, at this point to mention to my colleagues that the military is held in much higher esteem than is the body in which we serve. I ask that the article be printed in the RECORD.

The article follows:

[From the Christian Science Monitor, Apr. 28, 1983]

AMERICA'S VIEWS ON U.S. MILITARY

(By Lucia Mouat)

CHICAGO.—Most Americans welcome the increased number of women in the armed services and say they think women should have access to more jobs—such as jet fighter pilots and missile gunners—that now are closed to them, according to a survey by the National Opinion Research Center (NORC) as the University of Chicago.

The survey results also showed that most Americans found the ratio of blacks in the armed forces (about 22 percent) and in the Army (33 percent) "about right." Most, and particularly blacks, also argued that Hispanic representation in the military should be increased.

"The military is probably the most thoroughly desegregated institution in the United States," says James Davis, senior author of the report and chairman of the Harvard University Sociology Department. "On the one hand, there is pride that it is a bellwether, but there is also enormous concerns in some Washington circles that the ethnic mix could one day lead to an all-black military. . . . This survey suggests the American people might not be unhappy about what disproportion there is and would be satisfied to go further before it stops," he says.

Most Americans say they think the all-volunteer system is working well or fairly well. They strongly oppose a return to the draft except in a national emergency. If there were a draft, however, most Americans say women should be included. One-third, espe-

cially working women as opposed to men and housewives, favor hand-to-hand combat duties for women. Although the American military establishment has taken a verbal battering from its critics over the years, the military as an institution ranks a high fifth in the NORC survey—well ahead of the Supreme Court and most other Washington fixtures.

"With the exception of Vietnam, there has hardly been a historical situation where the military has come off badly in popular thinking," Professor Davis notes. "This survey suggests no evidence that Americans have become cynical." NORC's annual public opinion survey for the first time included questions on the military. Those data have just been analyzed with the help of special Ford Foundation funding.●

MIGUEL ALEMAN, FORMER PRESIDENT OF MEXICO

● Mr. GOLDWATER. Mr. President, a great Mexican, former President Miguel Aleman, who was a friend of mine and of the United States and a vigorous supporter of private business, died recently. In honor of him, I should like to have printed in the RECORD a moving eulogy by Willard Andrews, president of the Mexican Chamber of Commerce of the United States and president of the Latin American Division of Becton, Dickinson & Co., as well as a brief profile of President Aleman by the Mexican National Tourist Council, which he headed for many years.

The material follows:

EULOGY TO EX PRESIDENT MIGUEL ALEMAN

Ladies and Gentleman, before I proceed with the introduction of our distinguished speaker, I would like to explain the black sash on the Mexican flag to my left. Last week we lost a honorary director of the Chamber and a good and dear friend.

Miguel Aleman, President of the Mexican National Tourist Council.

President of the Republic of Mexico from 1946 to 1952.

Principal developer of the National University and creator of the fabulous University City.

Founder of Mexico's Industrial Revolution.

Lawyer, teacher, judge, senator, President and diplomat, husband, father, friend. gentleman par excellance.

I will never forget—nor will my wife and my daughter—the miracle we witnessed last year at the Felt Forum on the 15th of September—Mexican Independence Day.

Don Miguel Aleman—dreadfully ill with terminal cancer—there as the representative of President Lopez Portillo—to give the traditional "grito." Supported to the rostrum by his son Miguelito and by Ambassador Garcia Lopez and Ambassador Munoz Ledo—both of whom are here on the dais today—he was a sick, tired old man.

When the uniformed cadets handed him the "Bandera Nacional"—a miraculous metamorphosis took place.

He rose to his full height—a smile lighted his face—and while waving the flag with vigor and love he gave the "GRITO" in the voice of his youth.

Six thousand people in the forum were ecstatic with the joy, the love and the patriotism that radiated from him.

I will tell you that I wept and I was one of thousands equally touched by that magic moment.

I am not going to ask you to stand for a minute of silence for Don Miguel as that would not be his style or his wish.

I will say—God bless him—may he rest in peace.

MIGUEL ALEMAN, 1903–1983

Miguel Aleman's career spanned three major eras in Mexico's history. Born on September 27, 1903 in Sayula, Veracruz, he was a boy of 7 when the revolution broke out in 1910 and during the next 7 years he served under his father, a distinguished General who had joined the Revolution against the dictatorship of Porfirio Diaz, subsequently fought the Huerta regime and later gave his life for the cause of the Revolution.

After completing his schooling in Orizaba, Veracruz, and at the National Preparatory School (the old San Ildefonso College), he attended the National University of Mexico's Law School where he graduated in 1928. Upon graduation he began his professional career in Tampico as Counsel for the mining, petroleum, and railroad workers and during the next six years, he acquired a wide reputation as an advocate of workers' rights, while playing a very active role in agrarian reform and the restructuring of the Institutional Revolutionary Party (P.R.I.), today the leading political party in Mexico.

In 1934 he was appointed Superior Court Judge for the Federal District and two years later was elected Senator for his home State of Veracruz. He was elected Governor of Veracruz that same year, 1936, and served until 1939, when General Manuel Avila Camacho who was a candidate for President, asked him to manage his campaign. General Avila Camacho was elected and he appointed Mr. Aleman his Secretary of "Governación". "Gobernación" is the senior portfolio in the Mexican Cabinet and is a combination of the Interior Department and that of Home Secretary, responsible for law and order and immigration. Mr. Aleman's term as Secretary of Gobernación coincided with World War II and brought him into very close contact with the government of the United States. He was sent by President Avila Camacho to Washington to develop a series of agreements and cooperative plans for continental defense and he played a major role in the Chapultepec Conference which created the Organization of American States.

In 1945 he resigned from the Cabinet in order to conduct his own campaign for the Presidency and thereby succeed President Avila Camacho. He was elected by an overwhelming majority and took office on December 1, 1946 as the first civilian President of Mexico in this century.

President Aleman's administration, 1946–1952, heralded a new era for Mexico. World War II was over; the world's economy was in shambles and a period of tremendous growth and development for Mexico was about to begin. He assigned a very high priority to education and two of his many accomplishments in this field were the construction of University City, on the southern perimeter of Mexico City, the largest university complex in the world at that time, as well as the National Polytechnic Institute, in the northern section of the city. His administration built thousands of schools and teachers' training facilities throughout the country. President Aleman's extensive social services and industrial development programs brought Mexico to the forefront as a dynamic country ready to exploit its enormous resources—oil, minerals, agriculture, a magnificent climate, a tremendous variety of tourist attractions including colonial architectural gems, impressive archaeological zones and thousands of miles of beaches. His administration triggered a rapidly-growing educated middle class.

Under President Aleman, vast housing schemes were completed, a major rural and urban electrification program was initiated and top priority was assigned to agriculture and food production including the creation of a cabinet-level department to develop the country's water resources and establish a national irrigation system. Special emphasis was placed on communications; the Sonora-California and the Southeastern Railroads were completed linking the country's two peninsulas, Baja California and Yucatan; highways were built, including the Mexico City-Acapulco highway, and ports were developed to accept ocean-going vessels. President Aleman was always very conscious of the importance of preserving his country's myriad cultural facets and he founded the Institute of Fine Arts, The National Indigenous Institute, and the Office of Tourism.

The fact that women were totally incorporated into Mexico's public life and have attained some of the highest positions in the land, is a tribute to President Aleman who amended Article 115 of the Constitution thereby granting women total franchise. Extremely concerned about the fate of the Jewish population of Nazi-occupied Europe, Miguel Aleman, as Secretary of Gobernacion during the war years, had set up a system whereby Jews were issued Mexican Salvoconductos/Laissez Passer which enabled them to enter a neutral or friendly country and eventually reach Mexico. Subsequently, when ships carrying Jewish immigrants attempting to reach Israel were prevented from reaching Israeli ports and were barred by most other countries, President Aleman announced to the world that they were welcome in Mexico. The existence of a most progressive Jewish community in Mexico today can be attributed in no small part to President Aleman. His interest in the Jewish people was further highlighted when he became the first Head of State to travel to New York to address the United Nations on behalf of the establishment of the State of Israel and when the 1947 Israeli-Arab war broke out, he supplied Israel with Mexican oil for its tanks and aircraft.

His friendship with U.S. Presidents Franklin Roosevelt and Harry Truman was well-known and relations between Mexico and the United States reached a peak during his administration. He was the first President of Mexico to address a joint session of the United States Congress and he was the first to be received at the White House.

President Aleman always had a deep interest in tourism and in the development of his country's tourist attractions. He was responsible for the rediscovery of Acapulco—today one of the world's most exciting tourist destinations.

In 1961 Mr. Aleman was asked by President Lopez Mateos to accept the Presidency of the National Tourist Council (Consejo Nacional de Turismo), the tourism marketing and promotion Agency of the Federal Government of Mexico. For the next twenty-two years, "Don Miguel", as he was affectionately known to millions of people, devoted his time and energies to traveling throughout the world promoting his coun-

try's many attractions and spreading goodwill among the peoples of all nations.

In his trips throughout the Americas, Europe, Australia and Africa, he stated repeatedly that tourism knows no national boundaries; he was always a fervent believer in the brotherhood of man and he freely expressed his feelings that tourism brought together peoples of many races, languages and ideologies, and that getting to know and understand each other better would help create a world where all people could live in peace and tranquility. He was instrumental in bringing thousands of major international conventions and congresses to Mexico, including world medical conventions, the World Tourism Association, UFTAA, PATA and ASTA—the American Society of Travel Agents—the world's premier professional travel association; he was inducted into the ASTA Hall of Fame in 1974.

His friendly smile, his warm handshake, his gentle manner and his deep interest in people brought Don Miguel honors wherever he went—honorary degrees from leading universities, including Columbia, Temple and Hebrew University in Jerusalem, the highest decorations of many countries in the Americas, Europe, Africa and Asia, honorary membership in cultural organizations both in Mexico and abroad, including the Royal Spanish Academy, the Academy of International Law and various national academies of arts and sciences.

Mexico and the world have lost a leader, beloved by all. He left behind a legacy which will endure for many years; those who were fortunate enough to be inspired by him will not forget and we know that his spirit will live forever.●

HIGHWAY USER FEES

● Mr. ABDNOR. Mr. President, the Surface Transportation Assistance Act of 1982 placed a tremendous tax burden on the trucking industry.

This burden is both unfair and inequitable because a flat user fee is to be assessed on all heavy motor vehicles, regardless of miles traveled. Trucks that travel a mere 5,500 miles a year across our Nation's highway system are to be subject to an identical fee as trucks that travel 200,000 miles on our highways.

One need not be an economist or a scholar to realize the regressiveness and inequity of this approach.

On January 26 of this year I introduced S. 113, to repeal highway user fees for heavy vehicles and replace the fees with a nickel-a-gallon increase in the Federal tax on diesel fuel to be phased in over a 2-year period.

I took the lead in introducing this legislation because I felt a "pay-as-you-go" fee would distribute more equitably the burden of maintaining our Nation's highway system. Under my legislation, heavy vehicles which travel more miles, using more fuel, thereby will pay their appropriate share for the maintenance of our highways.

The American Trucking Association, composed of motor carriers from all 50 States and the District of Columbia, has given its full support to my proposal as an equitable replacement for the user fees imposed by last year's act.

Today, Mr. President, I am happy to join Senators WALLOP and BOREN in their initiative to move a diesel differential fuel tax bill through the Committee on Finance. As members of the Committee on Finance, they can be instrumental in moving the differential fuel tax through Congress.

With combined efforts, I believe we can reach our goal of maintaining our country's vital highway system by justly taxing those who benefit from it the most; and for that reason I am pleased to cosponsor their bill which is virtually identical to my own.●

LATIN AMERICA AND ROBERT F. KENNEDY

● Mr. DODD. Mr. President, 15 years after his death, the words of Robert Kennedy continue to inspire and inform us. Much of what he had to say during a lifetime of distinguished public service remains fresh, relevant, and compelling today. In part, this is a tribute to the acuteness of the man's vision and the quality of his eloquence. But in part, I am afraid, it also reflects our failure to heed some of his warnings years ago.

Robert Kennedy knew that revolution was coming in Latin America, for example, and he knew what our country had to do if that revolution was to be channeled toward just, humane, and constructive ends. Not an insignificant portion of the price being paid in Central America now could have been saved if we had listened more carefully to him.

In the New York Times on June 9, 1983, Anthony Lewis recalled some of Robert Kennedy's wisdom, its applicability to the contemporary world, and the void which his murder has left. I ask that his column be printed in the RECORD.

The column follows:

"THE LAND OF BECOMING"

(By Anthony Lewis)

BOSTON, June 8.—On a visit to Latin America in 1965, Robert Kennedy told a group of Peruvian students that the responsibility of our time was "to lead a revolution—a revolution which will be peaceful if we are wise enough, human if we care enough, but a revolution which will come whether we will it or not." To lead it toward freedom and justice was a formidable task, he said, but not impossible for us in our hemisphere:

"America is, after all, the land of becoming—a continent which will be in ferment as long as it is America, a land which will never cease to change and grow. We are as we act. We are the children and the heirs of revolutions. . . ."

It is 15 years this week since Robert Kennedy was murdered. How far we have moved in that time from his vision of the United States: as a country receptive to change, sensitive to injustice, ready to help victims of oppression struggle against ignorance and poverty. How far especially in our Government's policy toward Latin America.

Senator Kennedy came back from the 1965 trip warning that, "if we allow Communism to carry the banner of reform, then the ignored and the dispossessed, the insulted and injured will turn to it as the only way out of their misery." Yet the leaders of many Latin countries, he said, denounced all efforts for justice as Communist.

"If we allow ourselves to become allied with those to whom the cry of 'Communism' is only an excuse for the perpetuation of privilege," he told the Senate—"if we assist, with military material and other aid, governments which use that aid to prevent reform for their people—then we will give the Communists a strength which they cannot attain themselves."

Today the United States is responding to turmoil in Central America in ways that, to many Latins, seem to align us with the defenders of privilege. In El Salvador the old forces of oppression are now undoing land reform. The military spends much of its time murdering civilians, including peasants and nuns who question the status quo. And the Reagan Administration's answer is to identify us with the regime: to stake our reputation on its murderous ineptitude.

Everywhere in Latin America the policy is "anti-Communism" at any price. Washington winks at official mass murder in Guatemala. It cozies up to torturers in Chile and killers in Argentina. It ignores the appeals of our friends in Mexico and elsewhere for political negotiation.

The result of such a policy will be as Senator Kennedy predicted: to make Communism more attractive to the dispossessed of Latin America, and improve the prospects for a revolution that is not humane. And there is another result, about which he would have cared just as much: the darkening of the vision that we have of ourselves as a nation.

How many of us assume now that our Government acts in the world on moral principle? How many expect it to oppose inhumanity wherever it is found? In this age of cynicism, how many think that real change is possible? How many think that America is the land of becoming?

Robert Kennedy made people believe in the possibility of change. That was his special quality, and it got through to audiences of all kinds: in Tennessee and Peru, in Poland and South Africa. People who had lost hope found it in him.

He did not do it by easy promises. To the contrary, he made a point of saying that there would have to be sacrifices, that life would be uncomfortable. Nor did he offer the usual politician's smooth self-confidence, the packaged simplicities. He made mistakes and admitted them. He was vulnerable, prickly, irreverent. He was a romantic. He was a realist.

He believed in moral concern as public policy, and he believed in power: a combination that we have almost forgotten how to put together. He warned above all against the feeling that nothing can be done. Any man or woman, he said, acting in "courage or belief," can make a difference.

To think about Robert Kennedy is to realize what limp political choices Americans have today. The White House projects the sense not of possibility, of hope, but of fixation. The Democratic candidates offer all the passion of an accountants' convention.

No wonder so many millions of Americans, especially the young, are turned off by politics. I find myself thinking that something has gone fundamentally wrong with our political process, that it is not again going to

produce leadership of vision and courage. But that is the very kind of defeatism that Robert Kennedy rejected.

He would have been celebrating his 35th Harvard College reunion this week. His daughter, Kathleen Kennedy Townsend, spoke to his classmates one night. She talked briefly and affectingly about his concern for human rights, his belief that the privileged have obligations, his insistence that problems made by men can be solved by them. Then she said: "Those dreams are still worth dreaming."●

HONORING JESS GORKIN

● Mr. D'AMATO. Mr. President, it is with special pride that I ask the Nation's thanks be extended, with honor, to a most distinguished citizen, Jess Gorkin of Long Boat Key, Fla., and White Plains, N.Y. Mr. Gorkin recently retired after long service as one of America's most farsighted and courageous editors.

Mr. Gorkin, earlier an editor at Look, served in the U.S. Office of War Information (OWI) during World War II and afterward assumed the editorship of Parade, the Sunday newspaper magazine. Under his editorial leadership, Parade grew from 1 million to 21 million in circulation and attained great national respect: read and consulted by citizens and leaders in many fields.

Retiring from Parade about 5 years ago, Mr. Gorkin took over the editorship of Retirement Living and reshaped it into the vigorous, modern 50 Plus magazine which was still growing rapidly on January 1 of this year, when he finally decided his job had been finished and chose to retire to a more private life.

During 30 years at Parade, Mr. Gorkin proved himself an editor of great courage and insight, investigating national and social problems and always suggesting practical solutions. He faced issues squarely, and associates say he never let partisanship influence his recommendations.

Among the world's journalists he is known as the man who, sensing a critical need for instant communication in a nuclear age, published an "open letter" to President Eisenhower and Soviet Premier Nikita Khruschev proposing a Washington-Moscow hotline. Both nations acted and that hotline is still in effect today.

In national journalism, Mr. Gorkin became famous for his series of "open letters" to the public, the Congress, the White House, and other American leaders. Among other important topics, these letters dealt with health care, highway safety, education, national defense, and justice. He was one of the first to challenge American architects and builders to change their plans so that Americans need no longer be trapped in homes and buildings from which escape is difficult in case of fire.

Among his other significant public service contributions have been:

An open letter to the public urging action to save the Gettysburg Battlefield from unsightly commercial exploitation;

An open letter to President Nixon calling for a Washington-Peking hotline—a project on which he is still at work;

An open letter to educators asking that cardiopulmonary resuscitation (CPR) and the Hemlich maneuver—to rescue choking victims—be made part of the mandatory training in high school physical education courses. Many have done so;

An open letter to President Johnson proposing the first joint United States-Soviet space flight, which became an actuality and earned him a commendation by President Ford;

An open letter to American youth suggesting they "work a day for J.F.K." and raise funds toward the Kennedy Memorial Library—contributions totaled over $5 million; and

As editor of 50 Plus he published a series of "challenges" to business leaders, educators, doctors, and public officials in which he fought for reforms that would assure better treatment and care for America's senior citizens.

Mr. Gorkin has been honored by the American Legion, Veterans of Foreign Wars, the National Safety Council, and the Overseas Press Club—for excellence in foreign reporting. He has been given high honors, too, by the University of Iowa—his alma mater—where he lectures occasionally on journalism, and by other organizations.

Mr. Gorkin married the former Miss Dorothy Kleinberg and they have three sons, Michael, Brett, and Scott. They now maintain a residence at Long Boat Key, Fla.●

RHODE ISLAND'S BRIAN LAWTON: AN AMERICAN ORIGINAL

● Mr. PELL. Mr. President, Rhode Island and the entire Nation were proud last week when a 17-year-old school boy from Cumberland, R.I., became the first American ever selected as the first choice in the National Hockey League amateur draft. Brian Lawton, the son of Richard and Cathy Lawton, had a glittering 4-year high school career at Mount St. Charles School in Woonsocket, R.I., and had graduated from high school just 3 days before learning of his No. 1 selection in the National Hockey League draft. The second of four children, Brian has been an outstanding athlete ever since he began playing hockey at the age of 5. Although he has won almost every honor available to a high school athlete, including Rhode Island Schoolboy Athlete of the Year, he has gone out of his way to make sure that he is treated as an ordinary student despite the intense media attention and professional scouting that have surrounded him. Moreover he has maintained a steady "B" average throughout his high school years.

Whether Brian Lawton decides to pursue a college career or participation in the Olympics before playing professional hockey, it is evident that he has an outstanding career ahead of him. I would like to share with my colleagues an article about this very unique young man which appeared recently in the Woonsocket Call. I ask that the text of the article, entitled "It's Official: Lawton Top Pick," be printed in the RECORD.

The article follows:

[From the Woonsocket Call, June 8, 1983]

IT'S OFFICIAL: LAWTON TOP PICK

(By Larry Berman)

MONTREAL.—The historic announcement came in one simple sentence.

"The Minnesota North Stars select Brian Lawton," blurted Lou Nanne, the team's general manager, as the National Hockey League's amateur draft began this morning at the Montreal Forum.

Lawton, who graduated from Mount St. Charles Academy only three days ago, became the first American ever to be drafted in the number one position in the NHL's 67-year history.

Sitting in the stands with his parents, Richard and Cathy, Lawton came bounding down to the applause of some 1,000 draft watchers. The 17-year-old center was escorted to the North Stars' table on the floor of the arena and shook hands with Nanne and team officials. The Cumberland resident was presented a Minnesota jersey and immediately became engulfed by media members.

"It's great thrill!" said a beaming Lawton. "I'm so honored. And, I'm still a little bit in awe."

The Canadian natives were a bit in awe, too, wondering how an American could have stolen the thunder from a sport it has so long dominated.

Reminded of the significance of such a selection, Lawton said, "It hasn't hit me yet.

"I had hoped that I'd be number one, but I was never really sure until I heard my name called."

Nanne, known for his many trades in past years, listened to numerous offers even until this morning, but he deemed all deals, which included established NHL players, not equal to the potential of Brian Lawton.

Americans continued to steal the spotlight with two other selections in the top five. Center Pat Lafontaine of Detroit was tabbed third by the New York Islanders, and goaltender Tom Barrosso of Acton-Boxboro (Mass.) High was the fifth choice by the Buffalo Sabres.

The Hartford Whalers surprised many by passing over the high-scoring Lafontaine in favor of Sylvain Turgeon, a center from Quebec.

The Boston Bruins, selecting last in the first round, chose Nevin Markwart, a wing from Toronto.

However, none of those players gained the national and international attention of professional scouts as much as one center from a high school power in Woonsocket, R.I.

Lawton has been coveted by NHL scouts since the beginning of his storied Mount

career. He has made his reputation as a complete player—with no weaknesses in any area.

The 6-1, 180-pounder has outstanding size and toughness. He's an excellent skater and an unselfish team player.

He had a glittering career at Mount, earning Call all-star and all-state honors for three consecutive years. The Cumberland resident also played regularly as a freshman and wound up his career by playing integral roles on all four state and national championship teams. He won the Call Scoring Race championship and the state scoring title in each of his last two years.

As the number one choice, he is stepping into some pretty fast company. Among the previous first selections were Denis Potvin, now captain of the four-time Stanley Cup champion New York Islanders; Guy Lafleur, who led the Montreal Canadiens to four consecutive Cups in the 1970s, and Gil Perreault and Dale McCourt, now stars with the Buffalo Sabres.

All of those players were tabbed directly out of the Canadian Junior Leagues, which is the usual route. But now, U.S. high school and college players are coveted just as highly.

"I knew that some day we'd see the top few selections being Americans, but I never thought it would happen so soon," said Nanne. "The Americans have developed rapidly."

Previously, the highest a U.S. native had ever been drafted was third. Two years ago, Bobby Carpenter was tabbed by the Washington Capitals directly out of St. John's Prep in Danvers, Mass.

Carpenter and Lawton played against each other for their respective high schools in an exhibition game (won by Mount). They share other similarities—both had accepted full scholarships at Providence College, although Carpenter skipped a collegiate career and immediately joined the Caps.

Lawton had scored 64 goals and 136 points in his two seasons, proving that American school boys can more than hold their own with their Canadian counterparts.

Lawton may also pass up the opportunity to join the Friars, at least for the upcoming season. If he does not sign right away with the North Stars, he is leaning toward becoming a member of the United States Olympic Team as it defends its gold medal in Yugoslavia next February.

Lawton must first try out for the Olympic squad at the U.S. National Festival in Colorado Springs. That camp is only three weeks away. He hopes to make some sort of decision before then so as not to leave U.S. coach Lou Vairo hanging.

After the Olympics, he could sign with the North Stars and join them immediately (February isn't so far away," Lawton says), or remain an amateur and begin his PC career the following year.

"The Olympics have always been a dream for me," he says.

Of course it will be hard to pass up Minnesota offers, which figure to be in the range of at least a half-million dollars for a three-year period.

"I'm in no hurry to be rich," adds Lawton. "The financial security would be nice, though."

As his big decision comes nearer, Lawton is confident in the fact that he can play with the big boys. "But I'd have to do a lot of hard work over the summer," he adds.

He's already adjusted well to playing with older talent. He was the youngest member on both of his U.S. teams in the past year. At the World Junior Championships in the Soviet Union he was one of the squad's Most Valuable Players, and at the World 'B' Championships in Japan he scored two goals in the team's most important victory, which secured the gold medal for the U.S.

Lawton displayed his potential early in his career and has improved each season. While playing at Mount, he racked up superb totals of 125 goals and 125 assists.

In his final three seasons, his statistics were tremendous—34 goals and 31 assists as a sophomore, 45 goals and 43 assists as a junior, and 37 goals and 46 assists this past winter (despite missing some action due to the Russian trip).

But all the success has not come on natural ability alone . . . although he certainly has plenty of that. He is a tireless worker, always being the last to leave the ice at practice.

And now, all that hard work has been rewarded.

"It's a great honor to be number one," Lawton concluded, "But I'm still going to have to go out and prove myself."●

CHARLES A. HALLECK FEDERAL BUILDING

● Mr. QUAYLE. Mr. President, I am pleased to join with my colleague, Senator LUGAR, in introducing S. 1465, a bill to rename the Federal Building in Lafayette, Ind., in honor of an outstanding Hoosier, Charles A. Halleck.

Throughout his long career, Charles Halleck has exemplified an unfailing devotion to public service. He is a native of Demotte, Ind.; served in the infantry during World War I; attended Indiana University; and practiced law for over 10 years, as a prosecuting attorney on the 30th Judicial Circuit.

On January 29, 1935, Charles Halleck commenced his service in the House of Representatives which was to continue for over 30 years. He served as majority leader in the 80th and 83d Congresses and as minority leader in the 86th, 87th, and 88th Congresses. In 1968, after more than 34 years as a Member of Congress and a leader of the Republican Party, Charles Halleck retired to Rensselaer, Ind., where he continues to reside today.

At the age of 82, Charles Halleck remains an active and vital senior spokesman of Indiana's Republican Party. He enjoys widespread affection and admiration from his neighbors, former constituents, and the judicial officers with whom he served.

I believe that the Charles A. Halleck Federal Building is a fitting tribute to one who enjoys an outstanding record of faithful public service and who serves as an example for all who follow his footsteps.

RHODE ISLAND PLANS FOR THE FUTURE

● Mr. PELL. Mr. President, I call the attention of the Senate to an article describing an extraordinary effort now underway in the State of Rhode Island to identify, analyze, and define the elements of our State's future economic development.

As one of the oldest of the industrial States, Rhode Island is a living laboratory of America's economic evolution and, because of its compact geographical size, it lends itself to the kind of systematic analysis described in the article.

The project is being undertaken by the Rhode Island Strategic Development Council, which brings together the leaders of the business, labor, financial, and educational communities of the State.

The coauthors of the article are especially well qualified to describe this unique venture. J. Terrence Murray, chairman and president of Fleet Financial Group of Providence is chairman of the Rhode Island Strategic Development Commission. Ira Magaziner is president of the international consulting firm, Telesis Inc., which is coordinating research for the commission.

Mr. President, I submit for printing in the RECORD the article entitled "Rhode Island Plans for Future," from the Boston Globe of May 10, 1983.

The article follows:

[From the Boston Globe, May 10, 1983]

RHODE ISLAND PLANS FOR FUTURE

(By J. Terrence Murray and Ira Magaziner)

In a period when almost every state is scrambling to promote economic development, the State of Rhode Island has defined a uniquely comprehensive approach to planning its economic future.

In recent years, Rhode Island's economic development efforts have been quite similar to those of most other states. In addition to a glossy advertising campaign stressing quality of life, Rhode Island offers a standard package of investment incentives, such as industrial revenue bonds, site development and training subsidies and investment tax incentives. Along with 30 other states, Rhode Island provides special assistance to small businesses, and it has an active series of Small Business Administration programs and Urban Development Action Grant programs.

Still more recently, many Rhode Islanders talked up a storm about "high technology," "university-business partnerships" and "venture capital formation." There are now 18 states with high technology advisory councils, 19 programs around the country to foster university-industry technology and well over a dozen states with public, pension fund or public/private efforts aimed at venture capital formation.

Rather than jump on the bandwagon, leaders in Rhode Island have decided to take a more comprehensive approach to plotting Rhode Island's economic future. A commission has been established with representatives from the business, labor, financial, university and public communities in the state to prepare for the future. What distinguishes Rhode Island is the comprehensiveness of the study effort and the sweeping mandate for the commission to implement its work.

The Rhode Island Strategic Development Commission and its Advisory Committee comprise 70 people. The study itself is being conducted by 50 additional people (spending an average 20 hours per week), who have been donated by their companies, unions or universities or who have donated their own time. The study results will provide a more comprehensive look at the economy of a state than has ever been provided in this country. Some specific examples of the 32 separate examinations comprising the study are the following:

Specific information on cost structures, competitive positions, growth prospects, labor force characteristics, investment patterns and company structure will be gathered for almost every company in the state which exports goods or services anywhere outside Rhode Island.

An analysis of every company which has gone out of business or moved from the state (with over 50 employees), or which has reduced employment by more than 100 during the past 10 years, to understand the reasons why.

An analysis of all of the small businesses in the state carried out by direct interview rather than by secondary sources to understand better what constitutes the small business population and the characteristics of small business job creation, markets and growth. This will include a 100 percent analysis of the fate of all incorporations over a period of several years including those no longer in business.

An analysis of 23,000 corporate tax returns to understand the effects of various types of tax incentives (corporate, property, and income) on investment and job creation.

A department-by-department analysis of all the research capabilities in universities, hospitals and other institutions in the state to identify current and potential industry linkages.

When the results of this analysis are completed this summer, there will be a body of agreed-upon facts which will become the basis for a series of comprehensive recommendations for the state's executive authorities.

The majority of the recommendations, however, will be directed at the private sector. Each of the state's economic constituencies (industry, labor, finance, education, etc.) will be called upon to carry out certain recommendations as part of a compact for economic development.

The recommendations will address questions of how to stabilize and selectively expand Rhode Island's current industrial base, how to approach new growth areas selectively, how to improve the state's infrastructure for development without impairing its environment, how to develop its human resources through better training and better use of current know-how to improve the overall business climate.

The unveiling of our recommendations later this year will not end the commission's reason for being. Rather, it will mark the real beginning of our work, because we intend to see the project through to its actual implementation. As with any blueprint for economic development, no matter how well-conceived, we understand that success is not guaranteed. Plans cannot be carried out in a vacuum, free from influences of the world and national economies, politics, changing lifestyles and a host of other important factors.

The Strategic Development Commission will have done its job, we believe, if we succeed in creating a positive atmosphere in Rhode Island for economic growth and full employment. Our goal is to set the stage for a future in which Rhode Island's time has come to enjoy prosperity without fear that a troubled economy will take it away from us due to our own lack of planning or foresight. We feel our citizens deserve that much.●

BALTIC FREEDOM DAY

● Mr. PRYOR. Mr. President, on June 9, 1982, the Senate affirmed its solidarity with the Estonians, Latvians, and Lithuanians by unanimously supporting Senate Joint Resolution 201, naming June 14 as "Baltic Freedom Day." The resolution, which denounces the Soviet Union's illegal annexation of Lithuania in 1940, advocates the freedoms that the Soviet Union has categorically denied the Baltic States: those pertaining to self-determination, sovereignty, and free elections.

Today we should stop to consider the status of the Lithuanian state and the Lithuanian people. We have never and do not now recognize the pro-Soviet Government established after the U.S.S.R. orchestrated the national government's downfall in 1939. Rather, we choose to join with the thousands of Lithuanians who are struggling against the policy of Russification pursued by the Soviet regime. Protesting the hegemony begun under Czarist Russia, the Lithuanian people, at home and abroad, zealously defy attempts to eliminate their culture and national identity.

This Baltic Freedom Day, I encourage the citizens of the United States to examine Soviet actions in both Afghanistan and Poland, bearing in mind the Lithuanian plight. It is essential that we, as a nation, join with the Baltic States in rejecting oppressive regimes and the subsequent violations of human rights.●

COMMITTEE MEETINGS TOMORROW

Mr. McCLURE. Mr. President, I wonder if I may just alert the majority leader and other Members to a question that we may probably have on tomorrow.

We have a long-scheduled markup for the Committee on Energy and Natural Resources on the natural gas bill. We have finally gotten to the point where we are ready to start voting on some of those issues in that scheduled markup tomorrow morning.

At the same time, the distinguished Senator from Oregon has found it necessary to schedule the markup of the full Appropriations Committee on the Energy and Water Subcommittee bill. Therefore, we have a conflict at that time.

The reason I mention it is it will be my hope the Senate will grant unanimous consent that the Committee on Energy and Natural Resources may meet until 12:30 tomorrow, in which event then we could delay the beginning of that meeting and therefore accommodate the needs of Members on both sides of the aisle on those two committees.

Mr. BAKER. Mr. President, I thank the Senator. I assure him that I will start a unanimous-consent request through the clearance process to do that. I support that request, and I hope we can make it shortly.

Mr. President, we have a number of routine matters to be dealt with, and I think we can do them fairly promptly as soon as the minority leader is on the floor and has his material before him. In the meantime, Mr. President, since I see no other Senator seeking recognition, 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. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

THE CALENDAR

Mr. STEVENS. Mr. President, I inquire of my good friend, the Democratic leader, if it is now possible to proceed to the consideration of Calendar Nos. 133, 163, 165, 166, 167, 207, 208, 209, 211, 212, and 239.

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

Mr. STEVENS. I thank the Senator.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION MARINE FISHERIES PROGRAM AUTHORIZATION ACT

The Senate proceeded to consider the bill (S. 1099) to consolidate and authorize certain marine fishery programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce.

Mr. PACKWOOD. Mr. President, I am pleased that the Senate will consider this bill and three others that will, for the first time, provide active and comprehensive authorization of the activities of the National Oceanic and Atmospheric Administration (NOAA).

These four new authorization bills, S. 1097, S. 1098, S. 1099, and S. 1100 cover programs within all four of the NOAA budget areas. The four bills are:

S. 1097—A bill to consolidate and authorize certain atmospheric and satellite programs and functions;

S. 1098—A bill to consolidate and authorize certain ocean and coastal programs and functions;

S. 1099—A bill to consolidate and authorize certain marine fishery programs and functions;

S. 1100—A bill to consolidate and authorize program support and certain ocean and coastal programs and functions.

These bills, combined with the other NOAA authorization legislation already on the books, brings 100 percent of the NOAA budget within the annual reauthorization and oversight process. This is a step which is long overdue since NOAA has now existed for over 13 years without a comprehensive system for congressional review of its activities.

NOAA was originally established by Executive order in 1970 to consolidate Federal ocean and atmospheric activities. At that time these activities were scattered throughout a variety of Federal agencies. The need for a unified approach to the exploration and development of the oceans and atmosphere was recognized then, as it is now, as being essential to the maintenance and enhancement of the quality of our lives.

The scope of NOAA's responsibilities has also increased considerably since its formation in 1970. Since its establishment, NOAA has developed into a worldwide leader in ocean and atmospheric research and services. The functions of NOAA are critical for the efficient short-term and long-term forecasting of weather and the sound and productive management of the Nation's ocean and coastal resources. Not only does NOAA serve our national interests, but it provides essential data and services to other nations which assist in the protection of lives and property.

The status of NOAA as a worldwide leader in ocean and atmospheric research must be maintained to insure the continued safety and productivity of our Nation. Thus, it is in the national interest to take whatever steps are necessary to reinforce both NOAA's mission and its ability to carry out that mission.

However, maintaining the leadership status of NOAA has been more difficult in recent years. Budgetary pressure, as well as the proposed termination of certain programs, have confronted the agency during the past 3 years. This situation has threatened the viability of NOAA as an agency.

The reaction of Congress to these threats to NOAA has been to strongly support at least level funding for most NOAA programs. This support is a natural outgrowth of the national concern about the ever-increasing demands on our valuable oceanic and atmospheric resources. Congress feels that NOAA must be given the means to actively respond to this national concern.

The four bills that we are considering today recognize the importance of maintaining a strong national ocean and atmospheric program and provide the necessary authorization of funds for its administration. The Commerce Committee demonstrated its firm support for this comprehensive authorization plan when it unanimously voted to report these four bills on April 21, 1983.

There is another important point which I should make at this time. It is my feeling that a comprehensive authorization for NOAA lays a foundation for the establishment of NOAA as as independent agency within the Federal branch. Such a move has already been endorsed by the Reagan administration as part of a June 1, 1983, announcement. There is also widespread support for such an action within Congress and the ocean and atmospheric communities. By consolidating the legislative and appropriation authority for NOAA we are taking the first step toward the ultimate goal of transferring NOAA from the Commerce Department to a new, much deserved status as an independent organization. Such a transfer will, in my view, serve to bolster the mission and the effectiveness of NOAA.

For all these reasons, I urge Senators to join me in demonstrating Senate support for NOAA by voting in favor of S. 1097, S. 1098, S. 1099, and S. 1100.

Mr. HOLLINGS. Mr. President, this is the first time ever that the full Senate will consider legislation authorizing programs throughout the National Oceanic and Atmospheric Administration. The customary approach has been to enact authorization bills for specific programs covering only a fraction of the agency's activities. I am pleased that we have succeeded in taking a more comprehensive approach, because NOAA is involved in a vast variety of pursuits important to the Nation's present and future. One of the advantages we have seen flow from this tack is a heightened appreciation of NOAA among Commerce Committee members. I hope that comprehensive legislation will become traditional in authorizing the agency's programs in the future.

S. 1097 through S. 1100 provide for authorizations of appropriations for ocean and coastal programs, marine fisheries activities, environmental data and information services, satellite programs, and atmospheric research and services.

The Commerce Committee's hearings in February and March reviewed the administration's proposal to chop NOAA by more than $100 million and some 1,600 personnel. The authorization bills we have before us now reflect the extensive testimony against any effort to carve more flesh and bone from the agency's programs. As a result of many years of looking after NOAA from my vantage point on the Commerce Committee and State-Justice-Commerce Appropriations Subcommittee, I know how conservatively we have nursed its budget. The last several years of cutbacks, inflation, and salary increases have eroded NOAA's fundamental research and services. The bills we consider today do not call for major budget increases, but they do contemplate enabling the agency's activities to proceed without further reduction in fiscal year 1984.

NOAA makes a great contribution to the Nation—in terms of marine resource conservation, coastal zone management, weather services, and oceanic and atmospheric research. In addition, through such programs as sea grant, NOAA is a key factor in the education of scientists, engineers, and other highly skilled technical personnel. Nevertheless, the administration has continued to seek major reductions, including the elimination of the highly successful coastal zone and sea grant programs and a 40-percent decrease in fisheries activities. The bulk of the agency's work constitutes a part of our human and environmental infrastructure, and the administration budget cuts thus attack our future well-being. I hope we will soon see an end to this kind of shortsightedness. These authorization bills take a step in the right direction.

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

S. 1099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act".

FISHERIES INFORMATION COLLECTION AND ANALYSIS

SEC. 2. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Marine Fisheries Service to carry out its Fisheries Information Collection and Analysis duties under law, $26,500,000 for fiscal year 1984. These moneys shall be used to fund those duties relating to fisheries information collection and analysis specified by the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.), the Act of May 11, 1938 (16 U.S.C. 755), and the Fur Seal Act of 1966 (16 U.S.C. 1151 et seq.), the Act entitled, "An Act to promote the conservation of wildlife, fish, and game, and for other purposes", approved March 10, 1934 (16 U.S.C. 661 et seq.), and any other law involving such duties. These duties include, but are not limited to, collection analysis and dissemination of scientific data necessary to manage: marine fishery resources, marine mammals, endangered species, and their habitats.

(b) This authorization shall be in addition to any Fisheries Information Collection Analysis moneys authorized under the Magnuson Fishery Conservation and Manage-

ment Act of 1975 (16 U.S.C. 1801 et seq.), the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

FISHERIES CONSERVATION AND MANAGEMENT OPERATIONS

SEC. 3. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Marine Fisheries Service to carry out its Fisheries Conservation and Management Operations duties under law, $35,000,000 for fiscal year 1984. These moneys shall be used to fund those duties relating to fisheries conservation and management operations specified by the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.), the Act of May 11, 1938 (16 U.S.C. 755), the Fur Seal Act of 1966 (16 U.S.C. 1151 et seq.), and the Act entitled, "An Act to promote the conservation of wildlife, fish, and game, and for other purposes", approved March 10, 1934 (16 U.S.C. 661 et seq.), and any other law involving such duties. These duties include, but are not limited to, development, implementation, and enforcement of conservation and management measures to achieve continued optimum use of living marine resources; including hatchery operations, fishery management plan activities, habitat conservation, and protected species management.

(b) This authorization shall be in addition to any Fisheries Conservation and Management moneys authorized under the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the Salmon and Steelhead Conservation Act of 1980 (16 U.S.C. 3301 et seq.), and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

FISHERIES STATE AND INDUSTRY ASSISTANCE PROGRAMS

SEC. 4. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Marine Fisheries Service to carry out its Fisheries State and Industry Assistance program duties under law, $10,000,000 for fiscal year 1984. These moneys shall be used to fund those duties specified by the Fish and Wildlife Act of 1956 (16 U.S.C 742a et seq.) and any other law affecting State and industry fisheries assistance. These duties include, but are not limited to, financial assistance for fishing boats and fish processing plants, market development for fishery products, product quality and grants to States for improving management of interstate fisheries and stimulating fishery development.

(b) This authorization shall be in addition to any Fisheries State and Industry Assistance program moneys authorized under the Commercial Fisheries Research and Development Act of 1964 (16 U.S.C 779 et seq.), the Act entitled "An Act to authorize the Secretary of the Interior to initiate with several States a cooperative program for the conservation, development, and enhancement of the Nation's anadromous fish, and for other purposes", approved October 30, 1965 (16 U.S.C 757a et seq.), the Central, Western, and South Pacific Fishery Development Act (16 U.S.C. 758e), and the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.).

PAY INCREASE AUTHORIZATIONS

SEC. 5. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its duties indicated under this Act, such additional sums as may be necessary for increases in salary, pay, and other employee benefits authorized by law.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION PROGRAM SUPPORT AUTHORIZATION ACT

The bill (S. 1100) to consolidate and authorize program support and certain ocean and coastal programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Oceanic and Atmospheric Administration Program Support Authorization Act".

TITLE I—PROGRAM SUPPORT

EXECUTIVE DIRECTION AND ADMINISTRATION

SEC. 101. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its executive direction and administration duties under law, $55,400,000 for fiscal year 1984. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to executive direction and administration specified by the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes", approved December 31, 1970, as amended (33 U.S.C. 857-1), and any other law involving such duties. Such duties include, but are not limited to, management, administrative support, retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development.

MARINE SERVICES

SEC. 102. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its marine services duties under law, $62,400,000 for fiscal year 1984. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to marine services specified by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947, as amended (33 U.S.C. 883a), and any other law involving such duties. Such duties include, but are not limited to, ship operations, maintenance, and support.

AIRCRAFT SERVICES

SEC. 103. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its aircraft services duties under law, $5,000,000 for fiscal year 1984. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to aircraft services specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890, as amended (15 U.S.C. 311-329), and any other law involving such duties. Such duties include, but are not limited to, aircraft operations, maintenance, and support.

TITLE II—SELECTED OCEAN AND COASTAL PROGRAMS

OCEAN DUMPING RESEARCH

SEC. 201. For the purpose of enabling the National Oceanic and Atmospheric Administration to carry out its duties under title II of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1401), there are authorized to be appropriated to the Department of Commerce $12,000,000 for the fiscal year 1984, and $12,000,000 for fiscal year 1985.

NATIONAL OCEAN POLLUTION PLANNING ACT OF 1978

SEC. 202. For the purpose of enabling the National Oceanic and Atmospheric Administration to carry out its duties under the National Ocean Pollution Planning Act of 1978, as amended (33 U.S.C. 1701), there are authorized to be appropriated to the Department of Commerce $3,000,000 for fiscal year 1984, and $3,000,000 for fiscal year 1985.

OCEAN RESEARCH

SEC. 203. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its ocean research duties under law, $34,000,000 for fiscal year 1984. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to ocean research specified by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947, as amended (33 U.S.C. 883a), and any other law involving such duties. Such duties include, but are not limited to, undersea marine resources, air-sea interaction, and ocean and Great Lakes environmental research.

(b) The authorization provided for under subsection (a) shall be in addition to ocean research moneys authorized under the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1401), and the National Ocean Pollution Planning Act of 1978, as amended (33 U.S.C. 1701), for the purpose of carrying out such duties relating to ocean research.

OCEAN SERVICES

SEC. 204. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its ocean service duties under law, $16,200,000 for fiscal year 1984. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to ocean services specified by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947, as amended (33 U.S.C. 883a), and any other law involving such duties. Such duties include, but are not limited to, coordination of interagency research in ocean dumping and marine pollution, provision of tide and current data for the safe and efficient use of

the oceans and Great Lakes by government, commerce, and the private sector.

(b) The authorization provided for under subsection (a) shall be in addition to moneys authorized under the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451), and the National Ocean Pollution Planning Act of 1978, as amended (33 U.S.C. 1701), for the purpose of carrying out such duties relating to ocean services.

MAPPING, CHARTING, AND GEODESY

SEC. 205. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its mapping, charting, and geodesy duties under law, $72,500,000 for fiscal year 1984. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to mapping, charting, and geodesy specified by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947, as amended (33 U.S.C. 883a), and any other law involving such duties. Such duties include, but are not limited to, aeronautical and nautical mapping and charting activities, and geodetic data collection and analysis.

TITLE III—PAY INCREASE AUTHORIZATION

MISCELLANEOUS

SEC. 301. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its duties indicated under this Act, such additional sums as may be necessary for increases in salary, pay, and other employee benefits authorized by law.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION OCEAN AND COASTAL PROGRAM AUTHORIZATION ACT

The Senate proceeded to consider the bill (S. 1098) to consolidate and authorize certain ocean and coastal programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment:

On page 3, strike line 11, through and including line 17, and insert the following:

(b) Section 3(c) of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a(c)) is amended by adding immediately after paragraph (3) the following:

"(4) For fiscal years 1984 and 1985, not to exceed $1,000,000 in each fiscal year appropriated pursuant to section 212 of the National Sea Grant College Program Act may be available to carry out this section.".

So as to make the bill read:

S. 1098

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Oceanic and Atmospheric Administration Ocean and Coastal Program Authorization Act".

TITLE I—NONLIVING MARINE RESOURCES

AUTHORIZATION

SEC. 101. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its nonliving marine resource duties under law, $1,300,000 for fiscal year 1984. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to nonliving marine resources specified by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947, as amended (33 U.S.C. 883a), and any other law involving such duties. Such duties include, but are not limited to, research, development, and licensing responsibilities pertaining to ocean thermal energy conversion and the seabed mining of manganese nodules, and polymetallic sulfide analyses and research.

(b) The authorization provided for under subsection (a) shall be in addition to moneys authorized under the Deep Seabed Hard Minerals Resources Act (30 U.S.C. 1401), and the Ocean Thermal Energy Conversion Act of 1980, as amended (42 U.S.C. 9101), for the purpose of carrying out such duties relating to nonliving marine resources.

TITLE II—NATIONAL SEA GRANT COLLEGE PROGRAM ACT

AUTHORIZATION

SEC. 201. (a) For the purpose of enabling the National Oceanic and Atmospheric Administration to carry out its duties under the National Sea Grant College Program Act, as amended (33 U.S.C. 1131), there are authorized to be appropriated to the Department of Commerce $42,000,000 for the fiscal year 1984, and $46,000,000, for fiscal year 1985.

(b) Section 3(c) of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a(c)) is amended by adding immediately after paragraph (3) the following:

"(4) For fiscal years 1984 and 1985, not to exceed $1,000,000 in each fiscal year appropriated pursuant to section 212 of the National Sea Grant College Program Act may be available to carry out this section.".

TITLE III—OCEAN THERMAL ENERGY CONVERSION ACT

AUTHORIZATION

SEC. 301. For the purpose of enabling the National Oceanic and Atmospheric Administration to carry out its duties under the Ocean Thermal Energy Conversion Act of 1980, as amended (42 U.S.C. 9101), there are authorized to be appropriated to the Department of Commerce $620,000 for fiscal year 1984, and $620,000 for fiscal year 1985.

TITLE IV—NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE ACT OF 1977

AUTHORIZATION

SEC. 401. For the purpose of enabling the National Oceanic and Atmospheric Administration to carry out its duties under the National Advisory Committee on Oceans and Atmosphere Act of 1977, as amended (33 U.S.C. 857-13), there are authorized to be appropriated to the Department of Commerce $630,000 for each of the fiscal years 1984 and 1985.

TITLE V—PAY INCREASE AUTHORIZATION

MISCELLANEOUS

SEC. 501. There are authorized to be appropriated to the Department of Commerce to evaluate the National Oceanic and Atmospheric Administration to carry out its duties indicated under this Act, such additional sums as may be necessary for increases in salary, pay, and other employee benefits authorized by law.

The amendment was agreed to.

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

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

NATIONAL AERONAUTICS AND SPACE AUTHORIZATION ACT, 1984

The Senate proceeded to consider the bill (S. 1096) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation with amendments, as follows:

On page 2, line 14, strike "$548,600,00", and insert "$558,600,000";

On page 7, line 14, strike "per centum", and insert "percent";

On page 7, line 21, strike "per centum", and insert "percent";

On page 8, line 23, strike "thirty", and insert "30";

On page 10, line 4, strike "thirty", and insert "30";

So as to make the bill read:

S. 1096

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1984".

TITLE I

SEC. 101. There is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1983:

(a) For "Research and development", for the following programs:

(1) Space transportation capability development, $2,022,400,000;

(2) Space transportation operations, $1,535,600,000;

(3) Physics and astronomy, $558,600,000;

(4) Planetary exploration, $215,400,000;

(5) Life sciences, $59,000,000;

(6) Space applications, $321,000,000;

(7) Technology utilization, $10,000,000;

(8) Aeronautical research and technology, $328,300,000;

(9) Space research and technology, $138,000,000; and

(10) Tracking and data systems, $700,200,000.

(b) For "Construction of facilities", including land acquisition, as follows:

(1) Space Shuttle facilities at various locations as follows:

(A) Modifications for additional chillers for mission control center, Lyndon B. Johnson Space Center, $2,300,000;

(B) Modifications to mobile launch platform, John F. Kennedy Space Center, $27,300,000; and

(C) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility, $11,700,000;

(2) Space Shuttle payload facilities at various locations as follows:

(A) Construction of cargo hazardous servicing facility, John F. Kennedy Space Center, $9,000,000; and

(B) Modifications to spacecraft assembly and encapsulation facility for cargo processing, John F. Kennedy Space Center, $3,000,000;

(3) Construction of frequency standards laboratory, Jet Propulsion Laboratory, $2,700,000;

(4) Modifications to space flight operations facility, Jet Propulsion Laboratory, $1,600,000;

(5) Construction of fluid mechanics laboratory, Ames Research Center, $3,900,000;

(6) Construction of aeronautical tracking facility, Hugh L. Dryden Flight Research Facility, $800,000;

(7) Modifications and addition for composite materials laboratory, Langley Research Center, $5,100,000;

(8) Modifications to 30- by 60-foot wind tunnel, Langley Research Center, $4,400,000;

(9) Modifications for small engine component testing facility, Lewis Research Center, $7,000,000;

(10) Modifications to icing research tunnel, Lewis Research Center, $3,600,000;

(11) Relocation of 26-meter STDN antenna, Spain, $1,700,000;

(12) Repair of facilities at various locations, not in excess of $500,000 per project, $19,500,000;

(13) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $24,500,000;

(14) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $250,000 per project, $4,800,000; and

(15) Facility planning and design not otherwise provided for, $9,200,000.

(c) For "Research and program management", $1,247,500,000, and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

(d) Notwithstanding the provisions of subsection (g), appropriations hereby authorized for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this title may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

(f) Appropriations made pursuant to subsection (c) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections (a) and (c), not in excess of $75,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided*, That, of the funds appropriated pursuant to subsection (a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

(h) Notwithstanding any other provision of law, there shall be transferred to the National Aeronautical and Space Administration three Government-owned tracts of land used by the Administration and improvements thereon (totaling approximately 33.5 acres) at Ellington Air Force Base, Texas, without any transfer of funds therefor.

SEC. 102. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (14), inclusive, of section 101(b)—

(1) in the descretion of the Administrator or his designee, may be varied upward 10 percent, or

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 percent,

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 103. Not to exceed one-half of 1 percent of the funds appropriated pursuant to section 101(a) hereof may be transferred to and merged with the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to section 101(b) hereof (other than funds appropriated pursuant to paragraph (15) of such section) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in section 101(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of 30 days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (i) the nature of such construction, expansion, or modification, (ii) the cost thereof, including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 104. Notwithstanding any other provision of this title—

(1) no amount appropriated pursuant to this title may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation,

(2) no amount appropriated pursuant to this title may be used for any program in excess of the amount actually authorized for that particular program by sections 101(a) and 101(c), and

(3) no amount appropriated pursuant to this title may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of 30 days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 105. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore

ways and means of distributing its research and development funds whenever feasible.

SEC. 106. The authorization for Space Transportation Capability Development in section 101(a)(1) provides for the production activities necessary to provide for the fleet of Space Shuttle orbiters, including the production of spares necessary to ensure confident and cost-effective operation of the orbiter fleet. This authorization also initiates in fiscal year 1984 the procurement of a fifth orbiter.

SEC. 107. Any decision and proposed policy by the President or the National Aeronautics and Space Administration to commercialize some or all of the existing expendable launch vehicle technologies and associated facilities and equipment shall be presented to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives for their review and approval. No such decision or policy shall be implemented until such committees have notified the President or the Administration, as appropriate, of their review and approval.

SEC. 108. Title III of the National Aeronautics and Space Act of 1958 (Public Law 85-568; 72 Stat. 426) is amended by adding at the end thereof the following new section:

"MISUSE OF AGENCY NAME AND INITIALS

SEC. 310. (a) No person (as defined by section 305) may (1) knowingly use the words 'National Aeronautics and Space Administration' or the letters 'NASA', or any combination, variation, or colorable imitation of those words or letters either alone or in combination with other words or letters, as a firm or business name in a manner reasonably calculated to convey the impression that such firm or business has some connection with, endorsement of, or authorization from, the National Aeronautics and Space Administration which does not in fact exist; or (2) knowingly use those words or letters or any combination, variation, or colorable imitation thereof either alone or in combination with other words or letters in connection with any product or service being offered or made available to the public in a manner reasonably calculated to convey the impression that such product or service has the authorization, support, sponsorship, or endorsement of, or the development, use, or manufacture by or on behalf of, the National Aeronautics and Space Administration which does not in fact exist.

"(b) Whenever it appears to the Attorney General that any person is engaged in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.".

TITLE II

SEC. 201. There is authorized to be appropriated $29,336,000 for fiscal year 1984 for the purpose of operating the land remote sensing satellite system, including provision for storage of a backup satellite.

SEC. 202. Notwithstanding title II of the National Aeronautics and Space Administration Authorization Act, 1983 (Public Law 97-324; 96 Stat. 1597), the Secretary of Commerce shall not transfer the ownership or management of any civil land, meteorological, or ocean remote sensing space satellite system and associated ground system equipment unless, in addition to any other requirement of law—

(1) the Secretary of Commerce or his designee has presented, in writing, to the Speaker of the House of Representatives and the President of the Senate, and to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a comprehensive statement of recommended policies, procedures, conditions, and limitations to which any transfer should be subject; and

(2) the Congress thereafter enacts a law which contains such policies, procedures, conditions, or limitations (or a combination thereof) as the Congress deems appropriate for any such transfer.

The amendments were agreed to.

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

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION ATMOSPHERIC AND SATELLITE PROGRAM AUTHORIZATION ACT

The Senate proceeded to consider the bill (S. 1097) to consolidate and authorize certain atmospheric and satellite programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce, which had been reported from the Committee on Commerce, Science, and Transportation with amendments, as follows:

On page 2, line 14, strike "1890, as amended", and insert "1890";

On page 2, line 14, strike "311),", and insert "311 et seq.),";

On page 2, line 17, strike "1947, as amended", and insert "1947";

On page 2, line 17, strike "883a),", and insert "883a et seq.)";

On page 2, line 18, strike "1958, as amended", and insert "1958";

On page 2, line 19, strike "1301),", and insert "1301 et seq.)";

On page 3, line 14, strike "1890, as amended", and insert "1890";

On page 3, line 14, strike "311),", and insert "311 et seq.)";

On page 3, line 20, strike "Weather", through and including "330)," on line 22, and insert the following:

On page 3, line 25, strike "Act", through "2901)," and insert "Act (15 U.S.C. 2901 et seq.)";

On page 4, line 14, strike "1890, as amended", and insert "1890";

On page 4, line 15, strike "311),", and insert "311 et seq.)";

On page 4, line 17, strike "(96", and insert "(Public Law 97-324; 96";

On page 4, line 7, strike "1890, as amended", and insert "1890";

On page 4, line 8, strike "311),", and insert "311 et seq.)";

On page 5, line 10, strike "(96", and insert "(Public Law 97-324; 96";

On page 6, line 2, strike "1890, as amended", and insert "1890";

On page 6, line 3, strike "311),", and insert "311, et seq.)";

On page 6, line 12, after "1983,", insert "approved October 15, 1982 (Public Law 97-324; 96 Stat. 1597)";

On page 8, line 16, strike "paragraphs:", and insert "paragraph:";

On page 9, line 12, strike "relate", and insert "relates";

On page 10, line 9, strike "data.';", and insert "data;';";

On page 10, line 18, strike "Such", through and including line 19, and insert "Subsection (e) of such section is amended to read as follows:";

On page 11, line 25, strike "of", and insert "thereof";

On page 12, line 5, strike "is", and insert "are";

On page 12, line 14, strike "VI,", and insert "VI".

So as to make the bill read:

S. 1097

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Oceanic and Atmospheric Administration Atmospheric and Satellite Program Authorization Act".

TITLE I—PUBLIC WARNING AND FORECAST SERVICE

AUTHORIZATION

SEC. 101. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its public warning and forecast service duties under law, $270,900,000 for fiscal year 1984. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to public warning and forecast specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.), and any other law involving such duties. Such duties include, but are not limited to, meteorological, hydrological, and oceanographic public warnings and forecasting.

TITLE II—ATMOSPHERIC AND HYDROLOGICAL RESEARCH

AUTHORIZATION

SEC. 201. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric and hydrological research duties under law, $55,500,000 for fiscal year 1984. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to atmospheric and hydrological research specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et

seq.), and any other law involving such duties. Such duties include, but are not limited to, research for developing improved prediction capabilities for atmospheric and hydrological processes.

(b) The authorization provided for under subsection (a) shall be in addition to moneys authorized under the Act of December 18, 1971, entitled "An Act to provide for the reporting of weather modification activities to the Federal Government (15 U.S.C. 330 et seq.), and the National Climate Program Act (15 U.S.C. 2901 et seq.), for the purpose of carrying out such duties relating to atmospheric and hydrological research.

TITLE III—SATELLITE SERVICE

AUTHORIZATION

SEC. 301. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its satellite services duties under law, $75,000,000 for fiscal year 1984. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to satellite services specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), title II of the National Aeronautics and Space Administration Authorization Act, 1983, approved October 15, 1982 (Public Law 97-324; 96 Stat. 1597), and any other law involving such duties. Such duties include, but are not limited to, satellite maintenance and operations and satellite data analysis.

TITLE IV—SATELLITE SYSTEMS

AUTHORIZATION

SEC. 401. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its satellite systems duties under law, $137,600,000 for fiscal year 1984. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to satellite systems specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), title II of the National Aeronautics and Space Administration Authorization Act, 1983, approved October 15, 1982 (Public Law 97-324; 96 Stat. 1597), and any other law involving such duties. Such duties include, but are not limited to, spacecraft procurement, launch, and associated ground station system changes involving polar orbiting and geostationary meteorological satellites and land remote sensing satellites.

TITLE V—DATA AND INFORMATION SERVICES

AUTHORIZATION

SEC. 501. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its data and information services duties under law, $27,800,000 for fiscal year 1984. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to data and information services specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), and any other law involving such duties. Such duties include, but are not limited to, environmental data and information products and services in the atmospheric, marine, solid earth, and solar-terrestrial sciences.

TITLE VI—MISCELLANEOUS

LIMITATION ON TRANSFER AUTHORITY

SEC. 601. Notwithstanding title II of the National Aeronautics and Space Administration Authorization Act, 1983, approved October 15, 1982 (Public Law 97-324; 96 Stat. 1597), the Secretary of Commerce shall not transfer the ownership or management of any civil land, meteorological, or ocean remote sensing space satellite system and associated ground system equipment unless, in addition to any other requirement of law—

(1) the Secretary of Commerce or his designee has presented, in writing, to the Speaker of the House of Representatives and the President of the Senate, and to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a comprehensive statement of recommended policies, procedures, conditions, and limitations to which any transfer should be subject; and

(2) the Congress thereafter enacts a law which contains such policies, procedures, conditions, or limitations (or a combination thereof) as the Congress deems appropriate for any such transfer.

WEATHER SERVICE OFFICES

SEC. 602. No weather service station or weather service forecast office of the National Weather Service shall be closed or consolidated until the Secretary establishes appropriate standards, principles, and procedures (including formal hearings, comment periods, public notice, and other appropriate means of presenting evidence, views, and opinions) relating to any proposed closure or consolidation of a weather service facility.

WEATHER MODIFICATION REPORTING ACT

SEC. 603. Section 6 of the Act of December 18, 1971, entitled "An Act to provide for the reporting of weather modification activities to the Federal Government" (15 U.S.C. 330e) is amended—

(1) by striking out "and"; and

(2) by inserting immediately after "1981," the following: "and $100,000 for the fiscal year ending September 30, 1984,".

NATIONAL CLIMATE PROGRAM

SEC. 604. (a) Section 4 of the National Climate Program Act (15 U.S.C. 2904) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) The term 'Board' means the Climate Program Policy Board.".

(b) Subsection (c) of section 5 of the National Climate Program Act (15 U.S.C. 2904(c)) is amended—

(1) by inserting "(1)" "The Secretary",

(2) by designating the third sentence as paragraph, (3), and

(3) by striking out the second sentence and inserting in lieu thereof the following new paragraph:

"(2) The Office shall—

"(A) serve as the lead entity responsible for administering the program,

"(B) be headed by a Director who shall represent the Climate Program Board and shall be the spokesman for the program.

"(C) serve as the staff for the Board and its supporting committees and working groups,

"(D) review each agency budget request transmitted under subsection (h)(1) and submit an analysis of the requests to the Board for its review,

"(E) be responsible for coordinating interagency participation in international climate-related activities, and

"(F) work with the Academy of Sciences and other private, academic, State, and local groups in preparing and implementing the climate plan (described in subsection (d)(9)) and the program.

The analysis described in subparagraph (D) shall include an analysis of how each agency's budget request relates to the priorities and goals of the program established pursuant to this Act.".

(c) Subsection (d) of each section is amended—

(1) by striking out the semicolon at the end of paragraph (7) and inserting in lieu thereof a period and the following: "Such mechanisms may provide, among others, for the following State and regional services and functions:

"(A) studies relating to and analyses of climatic effects on agricultural production, water resources, energy needs, and other critical sectors of the economy,

"(B) atmospheric data collection and monitoring on a statewide and regional basis,

"(C) advice to regional, State, and local government agencies regarding climate-related issues,

"(D) information to users within the State regarding climate and climatic effects, and

"(E) information to the Secretary regarding the needs of persons within the State for climate-related services, information, and data.";

(2) by striking out "biennually" in paragraph (9) and inserting in lieu thereof "at a frequency (not more often than biennially or less often than quadrennially) determined by the Board", and

(3) by striking out "the intergovernmental program under section 6" in paragraph (9) and inserting in lieu thereof "the intergovernmental program described in paragraph (7)".

Subsection (e) of such section is amended to read as follows:

"(e) CLIMATE PROGRAM POLICY BOARD.—The Secretary shall establish and maintain an interagency Climate Program Policy Board, consisting of representatives of the Federal agencies specified in subsection (b)(2) and any other agency which the Secretary believes should participate in the program.

"(2) The Board shall—

"(A) be responsible for coordinating planning and progress review for the program;

"(B) review all agency and departmental budget requests related to climate transmitted under subsection (h)(1) and submit a report to the Office of Management and Budget concerning such budget requests;

"(C) establish and maintain such interagency groups as the Board determines to be necessary to carry out its activities; and

"(D) consult with users and producers of climate data, information, and services regarding the conduct of the program.

"(3) The Board biennially shall select a Chair from among its members. A Board member who is a representative of an

agency may not serve as Chair of the Board for a term if an individual who represented that same agency on the Board served as the Board's Chair for the previous term.".

(e) Subsection (f)(2) of such section is amended by inserting "with the Office" after "shall cooperate".

(f) The first sentence of subsection (g)(1) of such section is amended by inserting before the period at the end thereof the following: "and shall transmit a copy of such request to the National Climate Program Office".

(g) Section 6 of the National Climate Program Act (15 U.S.C. 2905) is repealed.

(h) There are authorized to be appropriated for purposes of carrying out the provisions of the amendments made by this section $1,189,000 for fiscal year 1984, and such sums as may be necessary for fiscal years 1985 and 1986.

TITLE VII—PAY INCREASE

AUTHORIZATION

SEC. 701. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its duties indicated under titles I through VI such additional sums for each title as may be necessary for increases in salary, pay, and other employee benefits authorized by law.

The amendments were agreed to.

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

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

THE REPLACEMENT OF PUMP CASING IN THE ROBERT B. GRIFFITH WATER PROJECT

The bill (S. 818) to authorize the replacement of existing pump casings in the Robert B. Griffith water project pumping plants 1A and 2A (formerly the Southern Nevada water project), and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 818

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to procure, and provide for the installation of, twelve new stainless steel casings and minor appurtenant parts to replace twelve existing cast steel pump casings in pumping plants 1A and 2A of the Robert B. Griffith water project, first stage.

SEC. 2. The Secretary is hereby authorized to negotiate with qualified manufacturers for the procurement of the new stainless replacement casings.

SEC. 3. Costs incurred in the procurement of the twelve pump casings and minor appurtenant parts shall be borne by the United States and shall be nonreimbursable and nonreturnable. The State of Nevada shall bear 100 per centum of the costs of installing the twelve stainless steel casings and minor appurtenant parts, all in a manner satisfactory to the Secretary.

SEC. 4. There is hereby authorized to be appropriated beginning October 1, 1983, for procurement of twelve stainless steel pump casings and minor appurtenant parts for the Robert B. Griffith water project pumping plants 1A and 2A the sum of $1,500,000 (July 1980 price levels), plus or minus such amounts, if any, as may be justified by reason of changes in procurement costs as indicated by engineering cost indexes applicable to the type of procurement involved: *Provided,* That except as otherwise may be required by existing contracts, the United States shall incur no further liability with respect to the twelve pumps in pumping plants 1A and 2A of the Robert B. Griffith water project, first stage and no further expenditures or actions by the United States with respect to those pumps are either expressly or impliedly authorized by this Act.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

GLADYS NOON SPELLMAN PARKWAY

The Senate proceeded to consider the bill (S. 680) entitled the "Gladys Noon Spellman Parkway," which had been reported from the Committee on Energy and Natural Resources with an amendment:

On page 2, strike line 5, through and including page 3, line 3, and insert the following:

SEC. 2. The parkway, under the jurisdiction of the Secretary of the Interior, in the State of Maryland known as the Baltimore-Washington Parkway, is hereby dedicated to Gladys Noon Spellman in recognition of her efforts to upgrade a most important transportation corridor in the Capital region and more broadly, to recognize her service to people of Maryland and the Nation as a Member of the House of Representatives of the Congress of the United States.

SEC. 3. In order to carry out the provisions of this Act, the Secretary of the Interior is authorized and directed to provide such identification by signs, including, but not limited to existing signs, materials, maps, markers, interpretive programs, or other means as will appropriately inform the public of the contributions of Gladys Noon Spellman.

SEC. 4. The Secretary of the Interior is further authorized and directed to cause to be erected and maintained, at a suitable location adjacent to the Baltimore-Washington Parkway, an appropriate marker commemorating the contributions of Gladys Noon Spellman.

SEC. 5. Effective October 1, 1983, there are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

Mr. SARBANES. Mr. President, I rise in support of passing S. 680, a bill to honor Maryland's Congresswoman Gladys Noon Spellman. This bill was introduced by me and cosponsored by my distinguished colleague from Maryland, Senator CHARLES McC. MATHIAS, JR.

Representative Gladys Spellman spent a lifetime dedicated to public service and is one of the most remarkable people ever to hold public office in the State of Maryland. Her entire career was marked by an extraordinary understanding of and respect for the democratic process. Typical of the letters I received in support of this legislation is one from a resident in the district Gladys represented who wrote, "I am writing to you to ask your support and prompt action on the bill to rename the Baltimore-Washington Parkway in Gladys Spellman's honor. She was a great lady and right there to help the older people. . . ." This woman was speaking for thousands who admire Gladys' record of achievement and her dedicated representation of her constituents.

Mr. President, the bill we have before us today is considerably different from the legislation I originally introduced. It does not rename the Baltimore-Washington Parkway for Representative Spellman; it simply dedicates the parkway to her. I want to make clear that I prefer the language of the original bill; however, I support passage of the amended bill simply because I feel so strongly that the Congress should honor one of its finest members.

The amendment was agreed to.

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

The title was amended so as to read "A bill entitled the "Gladys Noon Spellman Dedication."

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

ALBEN BARKLEY HISTORIC SITE

The Senate proceeded to consider the bill (S. 886) to designate the Alben Barkley National Historic Site, which had been reported from the Committee on Energy and Natural Resources with an amendment:

On page 2, line 15, strike "1982", and insert "1983",

So as to make the bill read:

S. 886

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

SECTION 1. (a) That in order to preserve for the benefit, education, and inspiration of present and future generations certain historically significant properties associated with the life of Alben Barkley, the Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, the lands and buildings thereon known as "Angles," comprising approximately thirteen acres located near Paducah, Kentucky.

(b) It is the express intent of the Congress that the Secretary should substantially

complete the acquisition program authorized by this Act within one year after the date of enactment of this Act.

(c) Upon the acquisition of the aforesaid property, the Secretary shall establish the same as the Alben Barkley National Historic Site by publication of a notice and boundary map in the Federal Register. The Secretary shall administer the site in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666), as amended.

SEC. 2. Effective October 1, 1983, there are authorized to be appropriated from the Land and Water Conservation Fund not to exceed $700,000 for the acquisition of lands and interests therein.

The amendment was agreed to.

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

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

REHABILITATION OF BELLE FOURCHE PROJECT

The Senate proceeded to consider the bill (S. 448) to authorize rehabilitation of the Belle Fourche irrigation project, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

On page 3, line 22, after "as", insert "of";

On page 4, beginning on line 5, strike "Water and Power Resources Service", and insert "Bureau of Reclamation".

So as to make the bill read:

S. 448

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the general plan for the Belle Fourche project, South Dakota, heretofore authorized for construction by the Secretary of the Interior, May 10, 1904, pursuant to the Reclamation Act of 1902 (32 Stat. 388), is modified to include construction, betterment of works, water conservation, recreation, and fish and wildlife conservation and development. As so modified, the general plan is reauthorized under the designation "Belle Fourche unit" of the Pick-Sloan Missouri Basin program.

SEC. 2. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary"), is authorized to negotiate and execute an amendatory repayment contract with the Belle Fourche irrigation district covering all lands of the existing Belle Fourche project. This contract shall replace all existing contracts between the Belle Fourche irrigation district and the United States.

(b) The period of repayment of the construction and rehabilitation and betterment costs allocated to irrigation and assigned to be repaid by the irrigation water users shall be not more than forty years from and including the year in which such amendatory repayment contract is executed.

(c) During the period required to complete the rehabilitation and betterment program and other water conservation works, the rates of charge to land class in the unit shall continue to be as established in the November 29, 1949, repayment contract with the district, as subsequently amended and supplemented; thereafter, such rates of charge and assessable acreage shall be in accordance with the amortization capacity and classification of unit lands as then determined by the Secretary.

SEC. 3. (a) All miscellaneous net revenues of the Belle Fourche unit shall accrue to the United States and shall be applied against irrigation costs not assigned to be repaid by irrigation water users.

(b) Construction and rehabilitation and betterment costs of the Belle Fourche unit allocated to irrigation and not assigned to be repaid by the irrigation water users nor returned from miscellaneous net revenues of the unit shall be returnable from net revenues of the Pick-Sloan Missouri Basin program within fifty years from and including the year in which the amendatory contract authorized by this Act is executed.

SEC. 4. (a) The provision of lands, facilities, and project modifications which furnish recreation and fish and wildlife benefits in connection with the Belle Fourche unit shall be in accordance with the Federal Water Project Recreation Act (79 Stat. 213), as amended.

(b) The interest rate used for purposes of computing interest during construction and interest on the unpaid balance of the capital cost allocated to interest-bearing features shall be determined by the Secretary of the Treasury as of the beginning of the fiscal year in which construction of said interest-bearing features is initiated, on the basis of the computed average interest payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue.

SEC. 5. Appropriations heretofore or hereafter made for carrying on the functions of the Bureau of Reclamation shall be available for credits, expenses, charges, and costs provided by or incurred under this Act. The Secretary is authorized to make such rules and regulations as are necessary to carry out the provisions of this Act.

SEC. 6. The Secretary is authorized to amend existing contracts and enter into additional contracts as may be necessary to implement and facilitate any future agreement between the Belle Fourche Irrigation District and non-Federal entities involving the sale of Belle Fourche project water for use by such non-Federal interest for other than irrigation purposes: *Provided,* That the net proceeds from such transactions between the Secretary, the Belle Fourche Irrigation District, and such non-Federal interest shall be paid to the United States as reimbursement of the cost of the works authorized by this Act, that such transactions are not in violation of applicable State laws, and that such transactions shall be subject to the consent and conditions of the State of South Dakota to such water use by such non-Federal interest in accordance with the laws of South Dakota and the provisions of the Belle Fourche River Compact between the States of Wyoming and South Dakota to which the consent of Congress was given in the Act of February 26, 1944 (ch. 64, 58 Stat. 94).

SEC. 7. There is hereby authorized to be appropriated beginning October 1, 1983, for the rehabilitation and betterment of the irrigation facilities of the Belle Fourche unit and recreation and fish and wildlife measues as authorized by this Act, the sum of $42,000,000 (based on January 1981 prices), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction cost indexes applicable to the types of construction involved herein.

The amendments were agreed to.

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

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

SANTA MARGARITA PROJECT, CALIFORNIA

The Senate proceeded to consider the bill (S. 805) to amend the Act of July 28, 1954 (68 Stat. 575), to authorize the Secretary of the Interior to construct, operate, and maintain the Santa Margarita Project, California, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with amendments, as follows:

On page 2, line 9, after "including", insert "the concurrent development of fish and wildlife mitigation measures";

On page 2, line 18, strike "environmental acceptability" and insert "compliance with applicable environmental laws";

On page 3, line 6, strike 'contrary.", and insert the following: "contrary: *Provided,* That the period of repayment for reimbursable construction costs shall be in accordance with the Federal reclamation law."

On page 4, strike line 8, through and including line 16, and insert the following:

"SEC. 4. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Santa Margarita project shall be in accordance with the Federal Water Project Recreation Act (79 Stat. 213), as amended.

"SEC. 5. There is hereby authorized to be appropriated beginning October 1, 1983, for construction of the Santa Margarita project the sum of $190,250,000 (January 1982 price levels), plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved and, in addition thereto, such sums as may be required for operation and maintenance of the works of said project.".

So as to make the bill read:

S. 805

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of July 28, 1954 (68 Stat. 575), is amended by striking all after the enacting clause and inserting the following:

"SECTION 1. (a) The Secretary of the Interior is authorized to construct, operate, and maintain the Santa Margarita project, California, in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and in accordance with the plan set out in the report of the Secretary on the project, including the concurrent development of fish and wildlife miti-

gation measures and any changes that may be required by studies in progress. The principal features of the project shall consist of Fallbrook and DeLuz Dams and Reservoirs, pipelines, regulation facilities, or other facilities required to provide water to the Fallbrook Public Utility District and the Marine Corps base at Camp Pendleton.

"(b) Appropriation of construction funds is contingent upon a secretarial determination of economic justification and compliance with applicable environmental laws based on such studies. Such determination shall include an estimate of the construction costs of the Santa Margarita project. Any modifications of, omissions from, or additions to the plan for the purpose of furnishing a supplemental municipal and industrial water supply, supplemental irrigation water supply, flood control, regulation of imported water, recreation, for fish and wildlife enhancement shall be implemented only with the concurrence of the Secretary of the Navy. Repayment of reimbursable construction costs by the Fallbrook Public Utility District or other qualified entity or entities shall be on such terms and conditions as the Secretary of the Interior may determine, notwithstanding any other provision of law to the contrary: *Provided*, That the period of repayment for reimbursable construction costs shall be in accordance with the Federal reclamation law. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the project shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the unit is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for fifteen years from date of issue.

"SEC. 2. The Secretary, prior to commencement of construction, shall enter into contracts with the Department of the Navy, the Fallbrook Public Utility District, or any other qualified entity or entities for delivery of water and for repayment of the reimbursable construction costs. Construction, operation, maintenance, and replacement costs of facilities and portions of facilities allocated to flood control and to the furnishing of a water supply to the Marine Corps base at Camp Pendleton shall be borne by the Department of the Navy.

"SEC. 3. In accordance with section 2481 of title 10, United States Code, proceeds from the sale of any surplus project water entitled to the Department of the Navy shall be credited to the Department of the Navy appropriation currently available for the supply of such water.

"SEC. 4. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Santa Margarita project shall be in accordance with the Federal Water Project Recreation Act (79 Stat. 213), as amended.

"SEC. 5. There is hereby authorized to be appropriated beginning October 1, 1983, for construction of the Santa Margarita project the sum of $190,250,000 (January 1982 price levels), plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved and, in addition thereto, such sums as may be required for operation and maintenance of the works of said project.".

Mr. WILSON. Mr. President, the legislation that the Senate is considering today, S. 805, will provide badly needed water supplies for southern California. This project will provide flood control and local water supplies for one of our most important defense installations, Camp Pendleton, and for the community of Fallbrook immediately adjoining the base. In addition, the Santa Margarita project will provide water to an increasingly important agriculture region, recreational opportunities and fish and wildlife benefits to the community of Fallbrook.

This project has had a long and complex history. First developed in the late 1940's as a single dam project, Congress authorized its construction in 1954. The principal features of the project shall consist of Fallbrook and DeLuz Dams and Reservoirs, pipelines, recreational facilities, and other facilities required to provide water to the Fallbrook Public Utility District and the Marine Corps Base at Camp Pendleton.

Support for this project is broad based and includes the Governor of California, the administration and many groups in the Fallbrook region. Governor Deukmejian of California believes, as I do, that this proposal will provide adequate water supplies for southern California while preserving our natural resources. The administration, speaking through the Departments of the Interior and the Navy, together with the Fallbrook Public Utility District are urging its approval.

The project is under the direction of the Department of Interior and is for the mutual benefit of the Marine Corps Base at Camp Pendleton and the Fallbrook Public Utility District.

Specific objectives are:

First. To conserve floodflows of the Santa Margarita River system in accordance with existing water rights and permits held for the benefit of Fallbrook Public Utility District and Camp Pendleton by the Bureau of Reclamation.

Second. To provide adequate storage capacity for the purchase, importation, and regulation of supplemental and emergency water supplies.

Three. To provide an adequate water supply to serve existing and projected development, closely coordinated with county and local land use plans.

Four. To provide flood protection in such a way as to conserve a maximum amount of water for use, rather than discharging it into the ocean.

Five. To strengthen the national defense by insuring that an adequate supply of water can be made available to Camp Pendleton at all times.

Six. To encourage and protect the production of high value, permanent specialty crops.

Seven. To promote the retention of lands proposed for long-term agricultural use in agricultural production and minimize urban sprawl and scattered urban development.

Eight. To encourage low-density residential development in rough terrain, and offer a range of choice of alternatives to high-density urban dwellings.

Nine. To provide recreational facilities, to help alleviate the present and projected deficiencies of such facilities in relation to the demand, and to diversify and strengthen the local economy in the Fallbrook area.

Ten. To preserve and enhance the fish, wildlife, natural vegetation, and open space of the project area, and to facilitate their use and enjoyment by people.

The Fallbrook Public Utility District and Camp Pendleton would utilize the water from the Santa Margarita project. The district serves over 16,000 residents and more than 9,000 acres of irrigated agriculture mostly avocado and citrus groves. As imported water deliveries in the future shift more to northern California from the Colorado, lack of storage capacity in the State system increases the risk of shortages in dry years. A serious disruption in the aqueducts serving the district could have a disastrous effect on these permanent crops, not to mention the hardships on the residents.

While the community of Fallbrook has no ground water basins and has had to rely entirely on imported water supplies, Camp Pendleton through a very sound water conservation program utilizing reclaimed wastewater for recharging of ground water acquifers, has been self sufficient. The administration's program to enhance use of the base to develop its mobilization capability and increase training activities must look for new resources. The Santa Margarita River project facilities will provide an alternative source of water supply for the Marine Corps base at Camp Pendleton, the U.S. Naval Hospital, and the Naval Weapons Station, Fallbrook Annex.

This project will provide benefits to an important military installation, Camp Pendleton, to the community of Fallbrook and to a valuable agricultural region.

Mr. President, I urge my colleagues to support this legislation.

The amendments were agreed to.

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

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

NATIONAL CHILDREN'S LIVER DISEASE AWARENESS WEEK

The Senate proceeded to consider the joint resolution (H.J. Res. 234) designating the week beginning June 19, 1983, as "National Children's Liver Disease Awareness Week."

Mr. D'AMATO. Mr. President, I rise today to urge adoption of House Joint Resolution 234, designating the week of June 19 as "National Children's Liver Disease Awareness Week." House Joint Resolution 234 is identical to Senate Joint Resolution 109, which now has 32 cosponsors. I ask for quick passage of this resolution so it may be signed by the President by June 19.

I want to thank those cosponsors who realized the importance of this legislation. I also want to thank my good friend, Congressman GUY MOLINARI, who secured passage of this resolution in the House. Hopefully, through passage of this legislation, liver disease in children will be recognized as a national problem.

The joint resolution was ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

EXTENSION OF TIME FOR FILING REPORT ON S. 1230

Mr. STEVENS. Mr. President, I ask unanimous consent that under the unanimous-consent agreement regarding S. 1230, the Armed Services Committee have until June 30, 1983, to report that bill.

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

LEBANON EMERGENCY ASSISTANCE ACT OF 1983

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 639.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 639) entitled "An Act to authorize supplemental assistance to aid Lebanon in rebuilding its economy and armed forces, and for other purposes", do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Lebanon Emergency Assistance Act of 1983".

ECONOMIC SUPPORT FUND

SEC. 2. (a) It is hereby determined that the national interests of the United States would be served by the authorization and appropriation of additional funds for economic assistance for Lebanon in order to promote the economic and political stability of that country and to support the international effort to strengthen a sovereign and independent Lebanon.

(b) Accordingly, in addition to amounts otherwise authorized to be appropriated for the fiscal year 1983 to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, there are authorized to be appropriated $150,000,000 to carry out such provisions with respect to Lebanon.

(c) Amounts authorized by this section may be appropriated in an appropriation Act for any fiscal year (including a continuing resolution) and shall continue to be available beyond that fiscal year notwithstanding any provision of that appropriation Act to the contrary.

MILITARY SALES AND RELATED PROGRAMS

SEC. 3. (a) In order to support the rebuilding of the armed forces of Lebanon, the Congress finds that the national security interests of the United States would be served by the authorization and appropriation of additional funds to provide training for the Lebanese armed forces and by the authorization of additional foreign military sales guaranties to finance procurements by Lebanon of defense articles and defense services for its security requirements.

(b) In addition to amounts otherwise made available for the fiscal year 1983 to carry out the provisions of chapter 5 of part II of the Foreign Assistance Act of 1961, there are authorized to be appropriated for the fiscal year 1983 $1,000,000 to carry out such provisions with respect to Lebanon.

(c) In addition to amounts otherwise made available for the fiscal year 1983 for loan guaranties under section 24(a) of the Arms Export Control Act, $100,000,000 of loan principal are authorized to be so guaranteed during such fiscal year for Lebanon.

UNITED STATES ARMED FORCES IN LEBANON

SEC. 4. (a) The President shall obtain statutory authorization from the Congress with respect to any substantial expansion in the number or role in Lebanon of United States Armed Forces, including any introduction of United States Armed Forces into Lebanon in conjunction with agreements providing for the withdrawal of all foreign troops from Lebanon and for the creation of a new multinational peace-keeping force in Lebanon.

(b) Nothing in this section is intended to modify, limit, or suspend any of the standards and procedures prescribed by the War Powers Resolution of 1973.

Mr. STEVENS. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

ORDER FOR H.R. 1746 TO BE PLACED ON THE CALENDAR

Mr. STEVENS. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be discharged from further consideration of H.R. 1746, a bill dealing with the Navajo and Hopi Indian Relocation Commission, and that it be placed on the calendar.

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

VETERANS ADMINISTRATION ADJUDICATION PROCEDURE AND JUDICIAL REVIEW ACT

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate Calendar No. 196, S. 636.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska?

Mr. BYRD. No objection.

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

The legislative clerk read as follows:

A bill (S. 636) to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to provide for judicial review of certain final decisions of the Administrator of Veterans' Affairs; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration; and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs with amendments as follows:

On page 5, line 8, strike "subsection", and insert "subsections";

On page 5, after line 8, insert the following:

"(c)(1) When there are sixty-five members of the Board, the Chairman may from time to time appoint from the professional staff of the Board, or reappoint one time within the three-year period following the expiration of the term of the initial appointment, individuals to serve as temporary members of the Board for terms not to exceed one year. Not more than one such member may be appointed to a section of the Board.

"(2) If, as a result of the temporary absence of a member, a section is composed of less than three members, the Chairman may assign an individual from the professional staff of the Board to serve as an acting member of the Board on such section for not to exceed thirty days. An individual so appointed may serve a total of sixty days as an acting member during any fiscal year. Not more than one such member may be assigned to a section of the Board.

"(3) In each annual report to the Congress required by section 214 of this title, the Administrator shall provide detailed descriptions of the activities undertaken and plans made in the fiscal year for which such report is made with respect to the authority provided by paragraph (1) of this subsec-

tion. In each such annual report, the Administrator shall indicate, in terms of full-time employee equivalents, the number of Board members appointed pursuant to paragraph (2) of this subsection.".

On page 6, line 10, strike "(c)", and insert "(d)";

On page 6, line 12, strike "October 1, 1983", and insert "December 31, 1984";

On page 7, strike line 17, through and including line 21, and insert the following:

(2) in subsection (b)—

(A) by striking out "When" and inserting in lieu thereof "(1) Except as provided in paragraph (2), when";

(B) by inserting a comma and "after notice of such additional information is furnished to the claimant and the claimant is provided an opportunity to be heard in connection with such information," after "concerned"; and

(C) by adding at the end thereof the following new paragraph:

"(2) When, without the vote of a member appointed under section 4001(c) (1) or (2) of this title a section would be evenly divided, such member shall not vote.".

On page 10, line 1, strike "fact, law, and", and insert "fact and law and on";

On page 11, line 23, strike "at a", through and including "proceeding," on line 24;

On page 18, after line 16, insert the following:

SEC. 111. Section 3010(i) is amended—

(1) by inserting "(1)" after "(i)"; and

(2) by adding at the end the following new paragraph:

"(2) Whenever any disallowed claim is reopened and thereafter allowed on the basis of new and material evidence in the form of official reports from the proper service department, the effective date of commencement of the benefits so awarded shall be the date on which an award of benefits under the disallowed claim would have been effective had the claim been allowed on the date it was disallowed.".

On page 19, line 10, after "Administrator,", insert "other than rules or regulations pertaining to agency management or personnel or to public property or contracts";

On page 21, line 18, strike "The Administrator shall file, together with", and insert "No later than thirty days after filing";

On page 21, line 20, after "section,", insert "the Administrator shall file";

On page 22, strike line 11, through and including line 17, and insert the following:

"(f)(1) No action may be brought under this section unless (A) the initial claim for benefits is filed pursuant to section 3001 of this title on or before the last day of the fifth fiscal year beginning after the effective date of this section, and (B) the complaint initiating such action is filed not more than one hundred and eighty days after notice of the first final decision of the Administrator rendered after the last day of such fiscal year is mailed to the claimant pursuant to section 4004(d) of this title. If the case is reopened pursuant to section 4004(b)(2)(A) of this title within one hundred and eighty days after such notice is mailed, the next final decision shall, for purposes of this subsection, be considered the first final decision of the Administrator.

"(2) No action may be brought under this section with respect to matters arising under chapters 19 and 37 of this title.".

On page 28, line 9, strike "claimant,", and insert "claimant";

On page 28, line 10, strike "recognized under this section,";

On page 28, line 23, strike "per centum", and insert "percent";

On page 30, line 2, strike "per centum", and insert "percent";

On page 31, line 11, strike "where", through and including "just" on line 14, and insert the following: "in accordance with the provisions of section 2412(d) of title 28, notwithstanding the provisions of section 204(c) of the Equal Access to Justice Act, Public Law 96-481.".

So as to make the bill read:

S. 636

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Administration Adjudication Procedure and Judicial Review Act".

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

TITLE I—ADJUDICATION PROCEDURES

SEC. 101. (a) Chapter 51 is amended by adding at the end of subchapter I the following new section:

"§ 3007. Burden of proof; benefit of the doubt

"(a) Except when otherwise provided by the Administrator in accordance with the provisions of this title, a claimant for benefits under laws administered by the Veterans' Administration shall have the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that the claim is well grounded. The Administrator shall assist a claimant in developing the facts pertinent to his or her claim.

"(b) When, after consideration of all evidence and material of record in any proceeding before the Veterans' Administration involving a claim for benefits under laws administered by the Veterans' Administration, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of such claim, the benefit of the doubt in resolving each such issue will be given to the claimant, but nothing in this section shall be construed as shifting from a claimant to the Administrator the burden described in subsection (a) of this section.".

(b)(1) The table of chapters at the beginning of title 38, United States Code, and the table of chapters at the beginning of part IV of such title are each amended by striking out in the item relating to chapter 51 "Applications" and inserting in lieu thereof "Claims".

(2) The heading of such chapter is amended to read as follows:

"CHAPTER 51—CLAIMS, EFFECTIVE DATES, AND PAYMENTS".

(c)(1) The table of sections at the beginning of such chapter is amended by striking out in the item relating to subchapter I "APPLICATIONS" and inserting in lieu thereof "CLAIMS".

(2) The heading of subchapter I of such chapter is amended to read as follows:

"SUBCHAPTER I—CLAIMS".

(d) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 3006 the following new item:

"3007. Burden of proof; benefit of the doubt.".

SEC. 102. Section 3311 is amended by adding at the end the following new sentences: "Subpenas authorized under this section shall be served by any individual authorized by the Administrator by (1) delivering a copy thereof to the individual named therein, or (2) mailing by registered or certified mail addressed to such individual at such individual's last known dwelling place or principal place of business. A verified return by the individual so serving the subpena setting forth the manner of service, or, in the case of service by registered or certified mail, the return post office receipt therefor signed by the individual so served shall be proof of service.".

SEC. 103. Section 4001 is amended—

(1) by amending the second sentence of subsection (a)—

(A) by striking out "(not more than fifty)" and inserting in lieu thereof "(not more than sixty-five)";

(B) by striking out "associate"; and

(C) by inserting before the period at the end of such sentence "in a timely manner"; and

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

"(c)(1) When there are sixty-five members of the Board, the Chairman may from time to time appoint from the professional staff of the Board, or reappoint one time within the three-year period following the expiration of the term of the initial appointment, individuals to serve as temporary members of the Board for terms not to exceed one year. Not more than one such member may be appointed to a section of the Board.

"(2) If, as a result of the temporary absence of a member, a section is composed of less than three members, the Chariman may assign an individual from the professional staff of the Board to serve as an acting member of the Board on such section for not to exceed thirty days. An individual so appointed may serve a total of sixty days as an acting member during any fiscal year. Not more than one such member may be assigned to a section of the Board.

"(3) In each annual report to the Congress required by section 214 of this title, the Administrator shall provide detailed descriptions of the activities undertaken and plans made in the fiscal year for which such report is made with respect to the authority provided by paragraph (1) of this subsection. In each such annual report, the Administrator shall indicate, in terms of full-time employee equivalents, the number of Board members appointed pursuant to paragraph (2) of this subsection.".

"(d) The Chairman of the Board shall submit a report to the appropriate committees of the Congress, not later than December 31, 1984, and annually thereafter, on the experience of the Board during the prior fiscal year together with projection for the fiscal year in which the report is submitted and the subsequent fiscal year. Such report shall contain, as a minimum, information specifying the number of cases appealed to the Board during the prior fiscal year, the number of cases pending before the Board at the beginning and end of such fiscal year, the number of such cases which were filed during each of the twenty-four months preceding the prior fiscal year and the then current fiscal year, respectively, the average length of time a case was before the Board between the time of the filing of an appeal and the disposition during the prior fiscal year, and the number of members of, and the professional, administrative, clerical, stenographic, and other personnel employed by, the Board at the end of the prior fiscal year. The projections for the current fiscal year and subsequent fiscal year shall in-

clude, for each such year, estimates of the number of cases to be appealed to the Board and an evaluation of the Board's ability, based on existing and projected personnel levels, to ensure timely disposition of such appeals as provided for by subsection (a) of this section.".

SEC. 104. Section 4002 is amended by striking out "associate" wherever it appears.

SEC. 105. Section 4003 is amended—

(1) in subsection (a), by inserting a comma and "after notice of such additional information is furnished to the claimant and the claimant is provided an opportunity to be heard in connection with such information," after "concerned"; and

(2) in subsection (b)—

(A) by striking out "When" and inserting in lieu thereof "(1) Except as provided in paragraph (2), when";

(B) by inserting a comma and "after notice of such additional information is furnished to the claimant and the claimant is provided an opportunity to be heard in connection with such information," after "concerned"; and

(C) by adding at the end thereof the following new paragraph:

"(2) When, without the vote of a member appointed under section 4001(c) (1) or (2) of this title a section would be evenly divided, such member shall not vote.".

SEC. 106. Section 4004 is amended—

(1) in subsection (a)—

(A) by striking out "involving" in the first sentence and inserting in lieu thereof "for"; and

(B) by inserting before the period at the end of the second sentence "after affording the claimant an opportunity for a hearing and shall be based exclusively on evidence and material of record in the proceeding and on applicable provisions of law";

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b)(1) Except as provided in paragraph (2) of this subsection, when a claim is disallowed by the Board, it may not thereafter be reopened and allowed and no claim based upon the same factual basis shall be considered.

"(2) Following such a disallowance, the Board (directly or through the agency of original jurisdiction, as described in section 4005(b)(1) of this title)—

"(A) when new and material evidence is secured, shall, and

"(B) for good cause shown, may

authorize the reopening of a claim and a review of the Board's former decision.

"(3) A judicial decision under subchapter II of chapter 71 of this title, upholding, in whole or in part, the disallowance of a claim shall not diminish the Board's authority set forth in paragraph (2) of this subsection to authorize the reopening of a claim and a review of the former decision."; and

(3) by amending subsection (d) to read as follows:

"(d) After reaching a decision in a case, the Board shall promptly mail notice of its decision to the claimant and the claimant's authorized representative, if any, at the last known address of the claimant and at the last known address of the claimant's authorized representative, if any. Each decision of the Board shall include—

"(1) a written statement of the Board's findings and conclusions, and reasons or bases therefor, on all material issues of fact, law, and fact and law and on matters of discretion presented on the record; and

"(2) an order granting appropriate relief or denying relief.".

SEC. 107. Section 4005(d)(5) is amended by striking out "will base its decision on the entire record and".

SEC. 108. Section 4009 is amended by adding after subsection (b) the following new subsection:

"(c) Whenever there exists in the evidence of record in an appeal case a substantial disagreement between the substantiated findings or opinions of two physicians with respect to an issue material to the outcome of the case, the Board shall, upon the request of the claimant and after taking appropriate action to attempt to resolve the disagreement, arrange for an advisory medical opinion in accordance with the procedure prescribed in subsection (b) of this section. If the Board denies the request of such claimant for such an opinion, the Board shall prepare and provide to the claimant and the claimant's authorized representative, if any, a statement setting forth the basis for its determination. Actions of the Board under this subsection, including any such denial, shall be final and conclusive, and no other official or any court of the United States shall have the power or jurisdiction to review any aspect of any such decision by an action in the nature of mandamus or otherwise, the provisions of subchapter II of chapter 71 of this title to the contrary notwithstanding.".

SEC. 109. (a) Chapter 71 is further amended by adding at the end thereof the following new sections:

"§ 4010. Adjudication procedures

"(a) For purposes of conducting any hearing, investigation, or other proceeding in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration, the Administrator may administer oaths and affirmations, examine witnesses, and receive evidence.

"(b) Any oral, documentary, or other evidence, even though inadmissible under the rules of evidence applicable to judicial proceedings, may be admitted in a hearing, investigation, or other proceeding in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration, but the Administrator, under regulations which the Administrator shall prescribe, may provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.

"(c)(1) In the course of any proceeding before the Board any party to such proceeding or such party's authorized representative shall be afforded opportunity—

"(A) to examine and, on payment of a fee prescribed pursuant to section 3302(b) of this title (not to exceed the direct cost of duplication), obtain copies of the contents of the case files and all documents and records to be used by the Veterans' Administration at such proceeding;

"(B) to present witnesses and evidence, subject only to such restrictions as may be set forth in regulations which the Administrator shall prescribe, pursuant to subsection (b) of this section, as to materiality, relevance, and undue repetition;

"(C) to make oral argument and submit written contentions, in the form of a brief or similar document, on substantive and procedural issues;

"(D) to submit rebuttal evidence;

"(E) to present medical opinions and request an independent advisory medical opinion pursuant to section 4009(c) of this title; and

"(F) to serve written interrogatories on any person, including any employee of the Veterans' Administration, which interrogatories shall be answered separately and fully in writing and under oath unless written objection thereto, in whole or in part, is filed with the Administrator by the person to whom the interrogatories are directed or such person's representative.

"(2) The fee provided for in paragraph (1)(A) of this subsection may be waived by the Administrator, pursuant to regulations which the Administrator shall prescribe, on the basis of the party's inability to pay or for other good cause shown.

"(3) In the event of any objection filed under paragraph (1)(F) of this subsection, the Administrator shall, pursuant to regulations which the Administrator shall prescribe establishing standards consistent with standards for protective orders applicable in the United States District Courts, evaluate such objection and issue an order (A) directing that, within such period as the Administrator shall specify, the interrogatory or interrogatories objected to be answered as served or answered after modification, or (B) indicating that the interrogatory or interrogatories are no longer required to be answered.

"(4) If any person upon whom interrogatories are served under paragraph (1)(F) of this subsection fails to answer or fails to provide responsive answers to any such interrogatories within thirty days after service or such additional time as the Administrator may allow, the Administrator shall, upon a statement or showing by the party who served such interrogatories of general relevance and reasonable scope of the evidence sought, issue a subpena under section 3311 of this title (with enforcement of such subpena to be available under section 3313 of this title) for such person's appearance and testimony on such interrogatories at a deposition on written questions, at a location within one hundred miles of where such person resides, is employed, or transacts business.

"(d) In the course of any hearing, investigation, or other proceeding in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration, an employee of the Veterans' Administration may at any time disqualify himself or herself, on the basis of personal bias or other cause, from adjudicating the claim. On the filing by a party in good faith of a timely and sufficient affidavit averring personal bias or other cause for disqualification on the part of such an employee, the Administrator shall determine the matter as a part of the record and decision in the case.

"(e) The transcript or recording of testimony and the exhibits, together with all papers and requests filed in the proceeding, and the decision of the Board (1) shall constitute the exclusive record for decision in accordance with section 4004(a) of this title, (2) shall be available for inspection by any party to such proceeding, or such party's authorized representative, at reasonable times and places, and (3) on the payment of a fee prescribed under section 3302(b) of this title (not to exceed the direct cost of duplication), shall be copied for the claimant or such claimant's authorized representative within a reasonable time. Such fee may be waived by the Administrator, pursuant to regulations which the Administrator shall prescribe, on the basis of the party's inability to pay or for other good cause shown.

"(f) Notwithstanding section 4004(a) of this title, section 554(a) of title 5, or any other provision of law, adjudication and hearing procedures prescribed in this title

and in regulations prescribed by the Administrator under this title for the purpose of administering veterans' benefits shall be exclusive with respect to hearings, investigations, and other proceedings in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration.

"§ 4011. Notice of procedural rights

"In the case of any disallowance, in whole or in part, of a claim for benefits under laws administered by the Veterans' Administration, the Administrator shall, at each procedural stage relating to the disposition of such a claim, beginning with disallowance after an initial review or determination, and including the furnishing of a statement of the case and the making of a final determination by the Board, provide to the claimant and such claimant's authorized representative, if any, written notice of the procedural rights of the claimant. Such notice shall be on such forms as the Administrator shall prescribe by regulation and shall include, in easily understandable language, with respect to proceedings before the Veterans' Administration, (1) descriptions of all subsequent procedural stages provided for by statute, regulation, or Veterans' Administration policy, (2) descriptions of all rights of the claimant expressly provided for in or pursuant to this chapter, of the claimant's rights to a hearing, to reconsideration, to appeal, and to representation, and of any specific procedures necessary to obtain the various forms of review available for consideration of the claim, and (3) such other information as the Administrator, as a matter of discretion, determines would be useful and practical to assist the claimant in obtaining full consideration of the claim.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 4009 the following new items:

"4010. Adjudication procedures.
"4011. Notice of procedural rights.".

SEC. 110. (a) In order to evaluate the feasibility and desirability of alternative methods of (1) assuring the resolution of claims before the Administrator of Veterans' Affairs for benefits under laws administered by the Veterans' Administration as promptly and efficiently as feasible following the filing of a notice of disagreement pursuant to section 4005 (as amended by section 107 of this Act) or 4005A of title 38, United States Code, and (2) affording claimants the opportunity for a hearing before or review by a disinterested authority at a location as convenient and on as timely basis as possible for each claimant, the Administrator is authorized to conduct a study, commencing not more than one year after the date of the enactment of this Act, for a period of twenty-four months, involving either or both of the alternative methods described in subsection (b) of this section for resolution of claims.

(b)(1) In not more than three geographic areas, the Administrator is authorized to provide an intermediate-level adjudication process whereby each claimant may, within the time afforded such claimant under paragraph (3) of section 4005(d) or 4005A(b) of title 38, United States Code, to file an appeal, request a de novo hearing at the agency of original jurisdiction (as described in section 4005(b)(1) of such title) before a panel of three Veterans' Administration employees, each of whose primary responsibilities include adjudicative functions but none of whom shall have previously considered the merits of the claim at issue. Following such hearing, such panel shall render a decision and prepare a new statement of the case in accordance with the requirements of paragraphs (1) and (2) of section 4005(d) of such title. Such new statement of the case shall, for all purposes relating to appeals under chapter 71 of such title, be considered to be a statement of the case as required by paragraph (1) of such section 4005(d).

(2) In not more than three other geographic areas, the Administrator is authorized to provide for an enhanced schedule of visits, on at least a quarterly basis each year, by a panel or panels of the Board of Veterans' Appeals to conduct formal recorded hearings pursuant to section 4002 of such title in such areas.

(c) Not later than six months after the completion of such study, the Administrator shall report to the Congress on the results thereof, including an evaluation of the cost factors associated with each alternative studied and with any appropriate further implementation thereof, the impact on the workload of each regional office involved in such study, and the impact on the annual caseload of the Board of Veterans' Appeals resulting from each alternative studied, together with any recommendations for administrative or legislative action, or both, as may be indicated by such results.

SEC. 111. Section 3010(i) is amended—

(1) by inserting "(1)" after "(i)"; and

(2) by adding at the end the following new paragraph:

"(2) Whenever any disallowed claim is reopened and thereafter allowed on the basis of new and material evidence in the form of official reports from the proper service department, the effective date of commencement of the benefits so awarded shall be the date on which an award of benefits under the disallowed claim would have been effective had the claim been allowed on the date it was disallowed.".

TITLE II—VETERANS' ADMINISTRATION RULE MAKING

SEC. 201. (a) Subchapter II of chapter 3 is amended by adding at the end the following new section:

"§ 222. Rule making

"Notwithstanding the provisions of subsection (a)(2) of section 553 of title 5, the promulgation of rules and regulations by the Administrator, other than rules or regulations pertaining to agency management or personnel or to public property or contracts, shall be subject to the requirements of section 553 of title 5.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 221 the following new item:

"222. Rule making.".

TITLE III—JUDICIAL REVIEW

SEC. 301. Section 211(a) is amended by striking out "sections 775, 784" and inserting in lieu thereof "sections 775 and 784 and subchapter II of chapter 71 of this title".

SEC. 302. (a) Chapter 71 is further amended—

(1) by inserting after the table of sections the following new heading:

"SUBCHAPTER I—GENERAL"; and

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

"SUBCHAPTER II—JUDICIAL REVIEW

"§ 4025. Right of review; commencement of action

"(a) For the purposes of this chapter—

"(1) 'final decision of the Administrator' means—

"(A) a final determination of the Board of Veterans' Appeals pursuant to section 4004 (a) or (b) of this title; or

"(B) a dismissal of an appeal by the board of Veterans' Appeals pursuant to section 4005 or 4008 of this title; and

"(2) 'claim for benefits' means—

"(A) an initial claim filed under section 3001 of this title;

"(B) a challenge to a decision of the Administrator reducing, suspending, or terminating benefits; or

"(C) any request by or on behalf of the claimant for reopening, reconsideration, or further consideration in a matter described in clause (A) or (B) of this paragraph.

"(b) Except as provided in subsection (f) of this section, after any final decision of the Administrator adverse to a claimant in a matter involving a claim for benefits under any law administered by the Veterans' Administration, such claimant may obtain a review of such decision in a civil action commenced within one hundred eighty days after notice of such decision is mailed to such claimant pursuant to section 4004(d) of this title. Such action shall be brought against the Administrator in the district court of the United States for the judicial district in which the plaintiff resides or the plaintiff's principal place of business is located, or in the district court of the United States for the judicial district where the principal offices of the Board of Veterans' Appeals (established under section 4001 of this title) are located.

"(c) The complaint initiating an action under subsection (a) of this section shall contain sufficient information to permit the Administrator to identify and locate the plaintiff's records in the custody or control of the Veterans' Administration.

"(d) Not later than thirty days after filing the answer to a complaint filed pursuant to subsection (a) of this section, the Administrator shall file a certified copy of the records upon which the decision complained of is based or, if the Administrator determines that the cost of filing copies of all such records is unduly expensive, the Administrator shall file a complete index of all documents, transcripts, or other materials comprising such records. After such index is filed and after considering requests from all parties, the court shall require the Administrator to file certified copies of such indexed items as the court considers relevant to its consideration of the case.

"(e) In an action brought pursuant to subsection (b) of this section, the court shall have the power, upon the pleadings and the records specified in subsection (d) of this section, to enter judgment in accordance with section 4026 of this title or remand the cause in accordance with such section or section 4027 of this title.

"(f)(1) No action may be brought under this section unless (A) the initial claim for benefits is filed pursuant to section 3001 of this title on or before the last day of the fifth fiscal year beginning after the effective date of this section, and (B) the complaint initiating such action is filed not more than one hundred and eighty days after notice of the first final decision of the Administrator rendered after the last day of such fiscal year is mailed to the claimant pursuant to section 4004(d) of this title. If the case is reopened pursuant to section 4004(b)(2)(A) of this title within one hundred and eighty days after such notice is mailed, the next final decision shall, for purposes of this subsection, be considered the first final decision of the Administrator.

"(2) No action may be brought under this section with respect to matters arising under chapters 19 and 37 of this title.".

"§ 4026. Scope of review

"(a)(1) In any action brought under section 4025 of this title, the court, to the extent necessary to its decision and when presented, shall—

"(A) decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning of applicability of the terms of an action of the Administrator;

"(B) compel action of the Administrator unlawfully withheld;

"(C) hold unlawful and set aside decisions, findings (other than those described in clause (D) of this paragraph), and conclusions of the Administrator found to be—

"(i) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(ii) contrary to constitutional right, power, privilege, or immunity;

"(iii) in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or

"(iv) without observance of procedure required by law; and

"(D) in the case of a finding of material fact made in reaching a decision on a claim for benefits under laws administered by the Veterans' Administration, hold unlawful and set aside such finding when it is so utterly lacking in a rational basis in the evidence that a manifest and grievous injustice would result if such finding were not set aside.

"(2) Before setting aside any finding of fact under paragraph (1)(D) of this subsection, the court shall specify the deficiencies in the record upon which the court would set aside such finding and shall remand the case one time to the Administrator for further action not inconsistent with the order of the court in remanding the case. In remanding a case under the first sentence of this paragraph, the court shall specify a reasonable period of time within which the Administrator shall complete the ordered action. If the Administrator does not complete action on the case within the specified period of time, the case shall be returned to the court for its further action.

"(b) In making the determinations under subsection (a) of this section, the whole record before the court pursuant to section 4025(d) of this title shall be subject to review, and the court shall review those parts of such record cited by a party, and due account shall be taken of the rule of prejudicial error.

"(c) In no event shall findings of fact made by the Administrator be subject to trial de novo by the court.

"(d) When a final decision of the Administrator is adverse to a party and the sole stated basis for such decision is the failure of such party to comply with any applicable regulation of the Veterans' Administration, the court shall review only questions raised as to compliance with and the validity of the regulation.

"§ 4027. Remands

"(a)(1) In any action brought under section 4025 of this title, the court shall, on motion of the Administrator made before the expiration of the time specified for the filing of an answer to a complaint filed pursuant to subsection (b) of such section, allow a single remand of a case to the Administrator for further review by the Administrator. If such review is not completed within ninety days after the date of such remand, the matter shall be returned to the court for its action.

"(2)(A) At any time after the Administrator files an answer, the court may, in the exercise of its discretion, remand the case to the Administrator for further action by the Administrator.

"(B) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there is good cause for granting such leave, the court shall remand the case to the Administrator and order such additional evidence to be taken by the Administrator.

"(C) In the case of a remand under subparagraph (A) or (B) of this paragraph, the court may specify a reasonable period of time within which the Administrator shall complete the required action.

"(b) After a case is remanded to the Administrator under subsection (a) of this section, and after further action by the Administrator, including consideration of any additional evidence, the Administrator shall modify, supplement, affirm, or reverse the findings of fact or decision, or both, and shall file with the court any such modification, supplementation, affirmation, or reversal of the findings of fact or decision or both, as the case may be, and certified copies of any additional records and evidence upon which such modification, supplementation, affirmation, or reversal was based. Any such modification, supplementation, affirmation, or reversal of the findings of fact or decision shall be reviewable by the court only to the extent provided in section 4026 of this title.

"§ 4028. Survival of actions

"Any action brought under section 4025 of this title shall survive notwithstanding any change in the person occupying the office of Administrator or any vacancy in such office.

"§ 4029. Appellate review

"The decisions of a district court pursuant to this chapter shall be subject to appellate review by the courts of appeals and the Supreme Court of the United States in the same manner as judgments in other civil actions.".

(b) The table of sections at the beginning of such chapter is amended—

(1) by inserting before the item relating to section 4001 the following new item:

"SUBCHAPTER I—GENERAL";

and

(2) by adding after the item (added by section 109(b) of this Act) relating to section 4011 the following new items:

"SUBCHAPTER II—JUDICIAL REVIEW

"Sec.
"4025. Right of review; commencement of action.
"4026. Scope of review.
"4027. Remands.
"4028. Survival of actions.
"4029. Appellate review.".

SEC. 303. Section 1346(d) of title 28, United States Code, is amended by inserting before the period at the end thereof "except as provided in subchapter II of chapter 71 of title 38".

TITLE IV—ATTORNEYS' FEES

SEC. 401. Section 3404 is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The Administrator shall approve reasonable attorneys' fees to be paid by the claimant to attorneys for representation before the Veterans' Administration in connection with a claim for benefits under laws administered by the Veterans' Administration, but in no event shall such attorneys' fees exceed—

"(1) for any claim resolved prior to or at the time that a final decision of the Administrator is first rendered, $10; or

"(2) for any claim resolved after such time, an amount in excess of—

"(A) if the claimant and an attorney have entered into an agreement under which no fee is payable to such attorney unless the claim is resolved in a manner favorable to the claimant, 25 percent of the total amount of any past-due benefits awarded on the basis of the claim; or

"(B) if the claimant and an attorney have not entered into such an agreement, the lesser of—

"(i) the fee agreed upon by the claimant and the attorney; or

"(ii) $500, or such greater amount as may be specified from time to time in regulations which the Administrator shall prescribe based on changed national economic conditions subsequent to the date of enactment of this subsection, except that the Administrator may, in the Administrator's discretion, determine and approve a fee in excess of $500, or such greater amount if so specified, in an individual case involving extraordinary circumstances warranting a higher fee.

"(d)(1) If, in an action brought under section 4025 of this title, the matter is resolved in a manner favorable to a claimant who was represented, by an attorney, the court shall determine and allow a reasonable fee for such representation to be paid to the attorney by the claimant. When the claimant and an attorney have entered into an agreement under which the amount of the fee payable to such attorney is to be paid from any past-due benefits awarded on the basis of the claim and the amount of the fee is contingent on whether or not the matter is resolved in a manner favorable to the claimant, the fee so determined and allowed shall not exceed 25 percent of the total amount of any past-due benefits awarded on the basis of the claim.

"(2) If, in an action brought under section 4025 of this title, the matter is not resolved in a manner favorable to the claimant, the court, taking into consideration the likelihood at the time such action was filed that the claimant would prevail, may determine and allow a reasonable fee not in excess of $750 to be paid to the attorney by the claimant for the representation of such claimant.

"(e) To the extent that past-due benefits are awarded in proceedings before the Administrator or a court, the Administrator shall direct that payment of any attorneys' fee that has been determined and allowed under this section be made out of such past-due benefits, but in no event shall the Administrator withhold for the purpose of such payment any portion of benefits payable for a period subsequent to the date of the final decision of the Administrator or court making such award.

"(f) The provisions of this section shall apply only to cases involving claims for benefits under the laws administered by the Veterans' Administration, and such provisions shall not apply in cases in which the Veterans' Administration is the plaintiff or in which other attorneys' fee statutes are applicable.

"(g) For the purposes of this section—

"(1) the terms 'final decision of the Administrator' and 'claim for benefits' shall

have the same meaning provided for such terms, respectively, in section 4025(a) of this title; and

"(2) claims shall be considered as resolved in a manner favorable to the claimant when all or any part of the relief sought is granted.

"(h) In an action brought under section 4025 of this title, the court may award to a prevailing party, other than the Administrator, reasonable attorneys' fees and costs in accordance with the provisions of section 2412(d) of title 28, notwithstanding the provisions of section 204(c) of the Equal Access to Justice Act, Public Law 96-481.".

SEC. 402. Section 3405 is amended—

(1) by striking out "or" after "title."; and

(2) by striking out "him" and inserting in lieu thereof "such claimant or beneficiary, or (3) with intent to defraud, in any manner willfully and knowingly deceives, misleads, or threatens a claimant or beneficiary or prospective claimant or beneficiary under this title with reference to any matter covered by this title".

TITLE V—EFFECTIVE DATES

SEC. 501. This Act and the amendments made by this Act shall take effect on the first day of the first month beginning not less than one hundred and eighty days after the date of enactment of this Act.

SEC. 502. A civil action authorized in subchapter II of chapter 71 of title 38, United States Code (as added by section 302(a) of this Act) may be instituted to review decisions of the Board of the Veterans' Appeals rendered on or after April 1, 1983.

Mr. SIMPSON. Mr. President, as chairman of the Committee on Veterans' Affairs, it is my pleasure to present to the Senate for its approval S. 636, the proposed Veterans' Administration Adjudication Procedure and Judicial Review Act. This legislation is designed to improve the adjudicative rights of individuals pursuing claims for Veterans' Administration benefits in order to make them more nearly comparable to the rights of claimants for virtually all other Federal benefits.

Mr. President, legislation similar to S. 636 has passed the Senate by voice vote in each of the last two Congresses. In the 96th Congress, S. 330 was favorably reported by the Veterans' Affairs Committee on May 3, 1979, and was passed by the Senate on September 17, 1979. Again, in the 97th Congress, similar legislation—S. 349—was unanimously reported by the committee on April 28, 1982, and was passed by the Senate on September 14, 1982.

S. 636 as it is before the Senate today is identical in most respects to S. 349 in the 97th Congress. The committee held a hearing to consider S. 636 on March 23, 1983, and reported the bill out, with a number of relatively minor committee amendments, on April 12, 1983.

This year's committee amendments would make the following substantive changes: First, authorize the appointment of "temporary" and "acting" members of the Board of Veterans' Appeals under certain circumstances—this provision is derived from language proposed by the VA—second, clarify that, although the rulemaking requirements of the Administrative Procedure Act would apply to matters such as individual benefits determinations by the VA, they need not apply to matters of agency management or personnel or to public property or contracts; third, revise the bill's sunset provision, keeping it at 5 years, but imposing certain time limitations on the filing of Federal court appeals of cases initially filed with the VA within the 5-year limit; and fourth, clarify the circumstances under which an award of attorneys' fees and costs may be made against the Government.

The central components of the bill have not been changed. Judicial review would be permitted—including a limited review of factual issues—where none is permitted under current law. Veterans claimants would be permitted to pay attorneys reasonable fees, within certain limitations, for representation before the VA and in the Federal courts, instead of the flat $10 fee limitation presently in effect. As an adjunct to these two central provisions, the bill would establish and codify certain adjudication procedures, and would, as I have already alluded to, impose certain formal rulemaking requirements on the VA. In order that the Senate might have the benefit of a more thorough description of the provisions of S. 636, I ask unanimous consent that the committee's summary of provisions be printed in the RECORD at the conclusion of my remarks.

Mr. President, I wish to express my deep appreciation for the continuing efforts of my good friend from California (Mr. CRANSTON), the ranking minority member of the Veterans' Affairs Committee, and of the Senator from Colorado (Mr. HART), the distinguished original sponsor of this legislation. Both of these gentlemen have been instrumental in seeing that this legislation moves forward with all possible speed, and future claimants for VA benefits will, I think, owe them a profound debt of gratitude for their good work in this area. I would also like to extend my thanks to the committee staff members who have labored over this legislation—particularly Scott Wallace, Tom Harvey, and Harold Carter of the majority staff, ably supported by Beckey Hucks and Laurie Altemose, and Bill Brew and Jon Steinberg of the minority staff.

Mr. President, the changes made by this bill are very long overdue. I strongly urge that my colleagues join me in supporting this important legislation.

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

SUMMARY OF PROVISIONS

The Committee bill has five titles: Adjudication procedures; Veterans' Administration rule making; Judicial review; Attorneys' fees; and Effective dates, as follows:

Title I: *Adjudication procedures.*—This title would codify and establish various internal procedures of the VA applicable in adjudications of claims for benefits under laws administered by the VA. Included in title I of the Committee bill are provisions that would:

1. Codify the burden of proof and reasonable doubt standards in VA claims adjudication proceedings, currently provided for by regulation (38 CFR 3.102 and 3.103), in order to assure that the VA's present practices of providing claimants all reasonable assistance in the development of claims and construing the evidence liberally in favor of the claimant are not lost in reaction to the provision, in title III of the Committee bill, authorizing judicial review of final decisions denying claims.

2. Specify procedures for the service of subpenas authorized under section 3311 of title 38, United States Code, including procedures for personal service or service by mail.

3. Increase the statutory limitation on the size of the BVA from 50 to 65 in order both to ease existing strains on the BVA's docket and to enhance the Board's ability to deal with workload increases that may be generated by judicial review of VA decisions.

4. Encourage the BVA to dispose of appeals before it in a timely manner.

5. Authorize the appointment of temporary BVA members for a term of not more than 1 year each when all 65 BVA positions are filled, and of acting members, for a period of not more than 30 days, or 60 days total in any single fiscal year, to serve in the temporary absence of regular members.

6. Preclude a temporary or acting member from casting a vote in any case where the votes of the two regular members are split.

7. Require the Administrator to report annually to Congress on the implementation of the provisions authorizing the appointment of temporary and acting BVA members.

8. Require the Chairman to report to the appropriate committees of the Congress annually on the Board's current and future workload and its ability, based on then current and projected staffing, to dispose of appeals in a timely manner.

9. Require the BVA to provide a claimant with notice and an opportunity for a hearing before making a decision based on additional offical information received after the BVA had previously decided the case.

10. Codify a claimant's right to an opportunity for a hearing before the BVA.

11. Require expressly that BVA decisions must be based exclusively on evidence and material of record and on applicable provisions of law.

12. Make a technical correction in the description of the BVA's authority to reopen a claim by deleting (as inconsistent with present practice) the present requirement that new and material evidence sufficient to reopen a claim be in the form of official reports from the proper service department.

13. Specify that a court decision upholding denial of a claim under title III of the Committee bill, shall not diminish the Board's discretionary authority to reopen a claim.

14. Require the BVA to mail a detailed statement of its decision to the claimant and the claimant's authorized representative, if any, at the last known address of the claimant and such representative.

15. Expand the present requirement that BVA decisions be in writing and contain findings of fact and conclusions of law sepa-

rately stated, to require that such decisions include findings and conclusions and reasons and bases therefor, on all material issues of fact, law, and matters of discretion, as well as an order granting or denying relief.

16. Expressly provide a claimant before the BVA, with the right, upon request, to have the Board acquire an independent medical opinion when there is a substantial disagreement between the substantiated findings or opinions of two physicians on an issue material to the outcome of the case. Any Board decision to deny such a request, and the basis for such denial, would have to be provided to the claimant but such decision would not be subject to judicial review.

17. Authorize the Administrator to administer oaths and affirmations, examine witnesses and receive evidence in VA claims adjudication proceedings.

18. Provide for the admission, even if inadmissible under the rules of evidence applicable in court, of all evidence submitted in VA claims adjudication proceedings subject only to such provisions as the Administrator may impose through regulations for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.

19. Provide that, in the course of hearings on a claim for VA benefits following initial denial of the claim, the claimant (or other party) shall have the right to review and, on the payment of a fee (waivable, pursuant to regulations that the Administrator must prescribe, on the basis of inability to pay or for other good cause shown) limited to the costs of duplication, to obtain copies of the case files and all materials to be used by the VA at the hearing, to present witnesses and evidence including medical opinions and rebuttal evidence, to make argument and to submit written contentions, and to submit to any person written interrogatories which must be answered unless written objections thereto are filed. If the person served with interrogatories files an objection thereto, the Administrator must, pursuant to regulations that the Administrator must prescribe, evaluate the objection and issue an order directing that answers be given or stating that they need not be given. If the person served with interrogatories fails to comply with such an order or, in the absence of an objection, to answer the interrogatories, the party who served the interrogatories would have the right, upon a statement or showing of good cause, to have the Administrator issue a subpena (enforceable in Federal district court) for the witness' attendance at a deposition at which the unanswered interrogatories would be asked.

20. Allow, in the course of any claims proceeding, any VA employee to disqualify himself or herself on the basis of personal bias or other cause and a party to challenge such an employee on such basis.

21. Specify the materials that must be included in the record of VA claims adjudication proceedings and provide that the record shall be available for the claimant's inspection and shall be copied for the claimant upon the payment of a fee (waivable, pursuant to regulations that the Administrator must prescribe, on the basis of claimant's inability to pay or for other good cause shown) limited to the costs of duplication.

22. Specify that the adjudication rights contained in title 38 and prescribed thereunder by the Administrator are exclusive.

23. Require the Administrator, at each stage of claims adjudication proceedings before the VA, to provide the claimant with detailed notice, in easily understandable language, of the claimant's procedural rights.

24. Authorize a VA study of alternative methods of ensuring the prompt and efficient resolution of claims and affording claimants the opportunity for a timely and convenient hearing or review by a disinterested authority. Under this provision, the Administrator could study the following two alternative methods of speeding claims resolution at locations convenient to claimants: (A) intermediate review panels which would conduct *de novo* reviews at VA regional offices prior to appeal to the BVA, and (B) an enhanced schedule of BVA traveling board visits (at least four per year). The report on the study, including the Administrator's recommendations for administrative or legislative actions, or both, would be due to be submitted to the Congress within 6 months after completion of the study.

25. Permit retroactive awards for claims reopened and allowed on the basis of new and material evidence in the form of service records.

Title II: *Veterans' Administration rule making.*—This title would require application of the rule making provisions of the Administrative Procedure Act (APA) to all matters other than those involving agency management, personnel, public property or contracts. Matters such as those involving VA benefits and loans would thus be made subject to certain APA requirements, including requirements of notice to the public of proposed regulations and opportunities for comment on such proposed regulations, notwithstanding the exclusion from such provisions in section 553(a)(2) of title 5, United States Code, of matters involving loans, grants, benefits, or contracts.

Title III: *Judicial review.*—This title would permit access to the United States Federal court system for review of decisions of the Administrator on claims for benefits. Included in title III of the Committee bill are provisions that would:

1. Expand the present category of exceptions to the general preclusion of judicial review contained in present section 211(a) of title 38, United States Code.

2. Authorize review of a final decision of the Administrator adverse to a VA benefits claimant in Federal district court (in either the plaintiff's home district or the judicial district where the Board of Veterans' Appeals is located, presently the District of Columbia) instituted by a civil action brought within 180 days of the mailing by the VA of notice of such decision.

3. Define a "final decision of the Administrator", which may be appealed to Federal court, to include a Board of Veterans' Appeals (BVA) final decision on the merits, refusal to reopen a claim, and dismissal of an appeal.

4. Define "claim for benefits" to include not just initial claims, but also subsequent action taken on a claim such as reduction or termination of benefits.

5. Require that a complaint instituting a civil action for court review of a decision relating to a claim for benefits include sufficient information to permit the VA to identify and locate the plaintiff's VA records.

6. Require the VA to file, together with its answer to a complaint, a certified copy of all of the materials that constitute the record or, if the cost of filing all such materials would be unduly expensive, a complete index of all of the materials. In the latter case, the court would, after considering the requests of the parties, order the Administrator to file certified copies of such indexed items as it deemed relevant to its consideration of the case.

7. Authorize a court, in an action for review of a VA denial of a claim for benefits, to enter a judgment on the pleadings and the records.

8. Preclude judicial review, under the provisions added by this title of the Committee bill, unless the initial claim is filed with the Administrator on or before the last day of the fifth fiscal year beginning after the effective date of such provisions and the appeal to Federal district court is filed within 180 days of the first BVA decision adverse to the claimant, as well as with respect to matters arising under chapters 19 (insurance) and 37 (home, condominium, and mobile home loans) of title 38, United State Code.

9. Authorize the reviewing court to decide all relevant questions of law; to interpret constitutional, and statutory provisions as well as other actions of the Administrator, compel action of the Administrator unlawfully withheld; and to hold unlawful and set aside decisions, findings, and conclusions of the Administrator found to be (A) arbitrary, capricious, and abuse of discretion, or not in accordance with law, (B) contrary to constitutional right, power, privilege, or immunity, (C) in excess of statutory jurisdiction, authority, or limitation, or in violation of a statutory right, or (D) without observance of procedure required by law, or (E) in the case of a finding of material fact, so utterly lacking in a rational evidentiary basis that a manifest and grievous injustice would result if the finding were not set aside.

10. Require a reviewing court, before reversing an Administrator's decision on the basis of the court's finding that a factual determination of the Administrator is utterly lacking in a rational evidentiary basis, to specify where it finds the record deficient and remand the matter a single time to the Administrator for further action within a reasonable, specified period of time.

11. Require a court, in making determinations, to review those parts of the administrative record cited by a party and to take due account of the rule of prejudicial error.

12. Preclude a reviewing court from conducting a trial *de novo* on the Administrator's findings of fact.

13. Provide that, in a matter resolved by the VA solely on the basis of a party's failure to comply with a VA regulation, the reviewing court may consider only issues raised as to the validity of or a party's compliance with the regulation.

14. Authorize three different types of remands from the reviewing court to the Administrator: First, a single remand for not more than 90 days, at the Administrator's request before the Administrator files an answer, for the Administrator to reconsider the case; second, a remand in the court's discretion after the administrator has filed an answer; and third, a remand if either party applies for leave to adduce further evidence and the moving party shows "good cause" for the requested remand.

15. Provide that any actions brought under the judicial review provisions added by this title of the Committee bill will survive the tenure of any individual as Administrator.

16. Provide that decisions of the district court pursuant to the judicial review provisions added by this title shall be subject to review in higher Federal courts in the same manner as judgments in other civil actions.

17. Specify that the current-law limitation on the jurisdiction of Federal district courts

in matters involving pensions shall not apply to VA pension matters.

Title IV: Attorneys' fees.—This title would revise the present title 38 limitation of $10 for claimants' attorneys' fees by authorizing reasonable attorneys' fees, within certain limits, for representation of individuals before the VA and for representation in a case appealed to court under the judicial review provisions added to title 38 by this title of the Committee bill, with a specified limitation in cases in which the matter is resolved in a manner unfavorable to the claimant. Included in title IV are provisions that would:

1. Retain the $10 limitation on the amount an attorney may receive for services rendered prior to a final BVA decision, while removing an ambiguity with respect to whether that limitation applies under current law to attorneys "recognized" for practice before the VA.

2. Permit the Administrator to approve a reasonable attorneys' fee for representation within the VA after a final BVA decision (where, for example, a case remains before the VA for reconsideration or for reopening on the basis of "new and material evidence" offered under section 4004(b) of title 38, United States Code, as amended by title I of the Committee bill), up to a maximum of $500 or, if the claimant and attorney have entered into a contingency-fee agreement, no more than 25 percent of any past-due benefits awarded the claimant.

3. Authorize the Administrator to increase the $500 maximum limitation in future years to reflect changed economic conditions.

4. Authorize the Administrator to disregard the $500 limitation in an individual case involving extraordinary circumstances warranting a higher fee.

5. Allow a reviewing court, in a case appealed from the VA, to approve a reasonable attorneys' fee. For cases not resolved in a manner favorable to a claimant, the maximum a court could approve would be $750. For cases resolved in a manner favorable to a claimant, the only limitation on the amount of the fee that a court could approve would be that it must be reasonable, or that, if a claimant and an attorney had entered into a contingent-fee agreement, the fee approved by the court could not exceed 25 percent of the total amount of past-due benefits.

6. Authorize the VA to make payment to an attorney from past-due benefits, but preclude the VA from making payments from benefits received subsequent to the date of the decision entitling the veteran to benefits.

7. Limit the applicability of the attorneys' fee provisions to cases involving claims for benefits.

8. Define, for the purpose of attorneys' fees provisions, a claim as being "resolved in a manner favorable to the claimant" when any or all of the relief sought is granted.

9. Authorize a court to award to a prevailing party, other than the Administrator, reasonable attorneys' fees and costs in accordance with the provisions of the Equal Access to Justice Act, under which such an award may be made unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.

10. Provide criminal penalties for willfully and intentionally defrauding a VA claimant.

Title V: Effective dates.—This title provides for an effective date and authorizes the institution of civil actions, under the judicial review provisions added by title III of the Committee bill, for the review of certain Board of Veterans' Appeals (BVA) decisions prior to such effective date. Included in this title are provisions that would:

1. Provide that the provisions added by the Committee bill would become effective 180 days after the date of enactment.

2. Allow for court review of a BVA decision rendered on or after April 1, 1983.

Mr. CRANSTON. Mr. President, as the ranking minority member on the Veterans' Affairs Committee, I am delighted to join with my good friend from Wyoming, the committee chairman (Mr. SIMPSON), in urging our colleagues to give their wholehearted, unanimous approval to S. 636, the proposed Veterans' Administration Adjudication Procedure and Judicial Review Act, as reported by the committee on May 18. If the Senate acts as we urge, this will be the third time that the Senate has gone on record in support of legislation to eliminate provisions in current law that accord veterans second-class citizenship in the very fundamental area of their relationship with the Federal Government with respect to statutory benefits and services. The first time was during the 96th Congress, on September 17, 1979, when the Senate passed a predecessor measure, S. 330; the second was during the last Congress when the immediate predecessor to the current legislation, S. 349, was passed on September 14, 1982. On each of these two prior occasions, the measure died in the House with the close of that Congress.

I am convinced that the Senate's position on this issue is correct, and I hope that our colleagues in the other body will take notice of our actions and, once this measure reaches that body, give it the full and favorable consideration it deserves. In this regard, I am very pleased to note that the House Committee on Veterans' Affairs has scheduled hearings on this issue for July 20 and 21 of this year.

Mr. President, the basic purpose of S. 636 as reported is to insure that veterans and other claimants before the VA receive all benefits to which they are entitled under law by—

Providing veterans and other claimants with the opportunity for judicial review of final VA decisions denying claims for benefits,

Improving and codifying certain internal procedures of the VA relating to the adjudication of benefit claims,

Requiring that VA rulemaking processes comply with provisions of the Administrative Procedure Act relating to notice and comment, and allowing claimants to pay attorneys reasonable fees for representation before the VA after a decision by the Board of Veterans' Appeals as well as for representation in judicial proceedings.

BACKGROUND

Mr. President, in March of this year, at the time Senators HART and I, joined by Chairman SIMPSON, along with 25 other original cosponsors, introduced S. 636—which was identical to S. 349 as passed by the Senate during the 97th Congress—I made an extended statement in which I discussed the history of consideration of judicial review legislation in the Senate and the reasons supporting the bill we were then introducing. I refer my colleagues and others with an interest in this background to my remarks at the time of introduction which begin on page S1895 of the RECORD for March 1, 1983. In addition, my statements on the predecessor measure in the last Congress, S. 349—which can be found on page S812 of the RECORD for January 30, 1981, at the time of introduction and on page S11421 of the RECORD for September 14, 1982, at the time of Senate passage—provide further background information on this legislation.

The measure as it comes before the Senate today has been through an extended period of development which began in the 94th Congress. During this period, the Committee on Veterans' Affairs has held nine hearings on judicial review legislation, and the Judiciary Committee has held one such hearing. Judicial review legislation has been before both the Veterans' Affairs Committee and the Judiciary Committee, with the Veterans' Affairs Committee three times voting to report the legislation and the Judiciary Committee twice, after referral of the reported bill to it for a limited period of time, allowing the reported measure to go to the full Senate unamended.

Finally, as I just noted, the Senate during the last two Congresses passed legislation quite similar to the pending measure.

In short, it is clear that the Senate has given a great deal of consideration to the issue of providing for judicial review of VA decisions and has indicated its support for providing an opportunity for a veteran aggrieved by a VA decision on a claim for benefits to obtain a carefully limited review of such a decision. I have every expectation that the Senate will go on record again today in support of such a result, and I strongly urge that action.

Mr. President, because, as I noted earlier, I have previously described in some detail the background of this legislation and the general reasons for my support for it, I will limit my remarks today to a brief discussion of the changes made by the Veterans' Affairs Committee to the measure as introduced. In addition, I will briefly discuss my responses to points made by the VA in testimony on S. 636 before the committee earlier this year.

COMMITTEE AMENDMENTS

Mr. President, the committee made two changes of some significance to S. 636 as introduced—one relating to temporary and acting members of the

Board of Veterans' Appeals and one relating to the effective date of awards on certain reopened claims—as well as a number of clarifying amendments to various provisions in the bill.

Mr. President, with reference to the issue of temporary and acting members of the Board of Veterans' Appeals—BVA—S. 636 includes a provision, derived, with modifications I proposed, from S. 887, legislation introduced by the committee chairman (Mr. SIMPSON) at the request of the administration. The provision in the committee bill would provide the BVA Chairman with new authority relating to the membership of the Board. Pursuant to this authority, the Chairman would be authorized to appoint individuals from the Board's professional staff to serve temporarily on the Board in two situations. First, the bill would authorize the Chairman to appoint a "temporary member" to serve for up to a year on a Board section during a period, such as exists at present, when the Board has a full complement of members—at present the statutorily-authorized maximum is 50 but would be increased to 65 under the bill—and is facing a backlog of cases. Second, the Chairman would be authorized to appoint, for periods up to 30 days and no more than 60 days in 1 year, a BVA professional staff member to serve as an "acting" member to take the place of a duly-appointed Board member who is temporarily absent from the three-member section to which he or she is regularly assigned.

Because the committee does not believe that these new appointment authorities should be allowed to alter the fundamental nature of the Board as an independent entity made of individuals appointed by the Adminstrator with the approval of the President, the role of "temporary" and "acting" members would be limited in one significant respect.

Under present section 4003 of title 38, United States Code, unanimous decisions of a BVA section constitute final determinations. When the members of a BVA section are not unanimous, the decision can become a final determination if the Chairman concurs with the majority. Under the provision in S. 636 as reported in any case in which the decision of a section of the Board is not unanimous and the vote of a "temporary" or "acting" member would otherwise form the basis for a "majority of members" of a section with which the Chairman could concur and dispose of the case, the temporary or acting member would not be permitted to vote. That being the case, there would then be an evenly divided panel and the Chairman would expand the section by adding another three-member panel.

Also, as a reflection of the committee's strong intention that these authorities be used only as needed and not result in any deviation from the normal process for appointing members of the Board with the approval of the President, S. 636 would require the Administrator to provide annually detailed information on the use of both authorities, which in turn will enable the committee to monitor their use closely.

Mr. President, with reference to the second change in the legislation as introduced, S. 636 as reported would permit the Board to make retroactive awards for claims reopened and allowed on the basis of new and material evidence, when such evidence takes the form of official reports from the proper service department. This amendment is intended to preserve existing VA practice in light of technical advice from VA staff which indicated that other provisions in S. 636 relating to reopening claims on the basis of any new and material evidence might, contrary to the committee's intention, have negated retroactive awards in cases involving such evidence from the various service departments.

AGENCY POSITION

Mr. President, although the impetus for S. 636 and its predecessor measures has been from the Senate and not from the VA, the agency's involvement with this legislation in prior years has generally been constructive. For example, the VA's testimony and report in 1979 on S. 330 was a thorough and scholarly review of the issues related to judicial review and, indeed, was, in some respects, supportive of that bill. Unfortunately, although the VA staff has continued to provide valuable technical assistance on judicial review legislation, the agency's official testimony at the March 23 hearing was not very helpful—being largely negative on S. 636 and, most regrettably, based in a number of respects on misleading arguments and distortions of the legislation.

I appreciate the fact that the Administration's viewpoint on a particular legislative measure can change over time and were that the only basis for the difference between the VA's testimony on earlier measures and on S. 636, I would not be as concerned as I am about the most recent testimony and its potential for creating confusion about S. 636.

Mr. President, through questions I asked at the committee's March 23, 1983, hearing and in followup to that hearing, I attempted to clarify some of the points relating to S. 636 as to which I believed the VA's testimony had created unnecessary confusion. Rather than repeat all of that material at this time, since it is a matter of public record and will be widely available in the near future when the record of the committee's hearing is published, I will instead touch briefly on just a few points about the legislation that I believe are particularly important and as to which the VA's testimony was particularly confusing.

Mr. President, before addressing these specific points, I want to make one general point in response to the VA testimony. In the agency's testimony, the point was made that "[t]he principal issue raised by [S. 636] is whether judicial review of individual VA benefit decisions is warranted." I believe that the issue should be cast in the obverse—that is, is there any basis for the continued preclusion of judicial review of VA benefit decisions, particularly in light of the availability of judicial review of virtually all other Federal agency decisions on claims for statutory benefits? I do not believe that there is any such basis.

Mr. President, a matter of principle is involved. Denial of judicial review has been justified on the argument that veterans' benefits are gratuities that Congress can give or take away at will. But veterans' benefits, in my judgment, are not mere gratuities. They are important rights and should be so regarded. The availability of these benefits should not be wholly dependent upon the perceptions, judgment, and legal interpretations of executive branch officials. Veterans, too, deserve the protection of the independent judicial branch of our Government. S. 636 would provide such protection.

Mr. President, the first specific point in the VA's testimony that I believe unnecessarily confused matters relates to what type of court review would be available if S. 636 were enacted. In the VA testimony, the point was made that the current adjudication system, which ends with a final, unappealable decision by the Board of Veterans' Appeals, is preferable "to a system involving judicial readjudication of individual benefit decisions." Clearly, S. 636—which expressly precludes a court from conducting a de novo review of a claim for VA benefits, restricts a court's role to a review of the administrative record, and provides a very limited scope of review for factual issues—cannot fairly be said to provide for "judicial readjudication" of VA claims. I do not believe it furthers the debate on this issue to mischaracterize the bill and hope the VA will refrain from doing so in the future.

Mr. President, the second point from the VA's testimony relates to the independence of the Board from the Administrator and the VA in general. In its testimony, the VA noted that "[t]he review provided by the Board is independent and the VA has scrupulously maintained this independence." Putting to one side the question of how independent an entity really is when the entity from which it is supposed to be independent has the power either to maintain or not to maintain

that independence, I believe the reality in the case of the Board—both by virtue of statute and practice—is that it is much less than fully independent of the VA.

During the committee's hearing on S. 636, I posed a number of questions on the issue of the Board's independence. The responses from the VA witnesses make it clear, I believe, that in many key respects the Board is not independent. For example, the VA acknowledged that, unlike a court, the Board cannot look behind an agency regulation to determine its validity but instead must simply apply the regulation to the facts in the claim before it. In a like matter, the Board is bound as a matter of law by instructions of the Administrator and precedent opinions of the VA's General Counsel. The VA witness conceded that these features reduce the Board to the role of being a factfinder, not a true independent entity such as a Federal court.

Answers from the VA witness to other questions demonstrated that Board members, including the Chairman, are not independent in other key respects. Instead of having life tenure or, at a minimum, some specific restrictions on the way in which their employment can be terminated, all Board members are appointed by the Administrator and enjoy no more job security than other permanent VA employees. In a myriad of other respects—including such matters as the BVA budget, the professional and other staff available to BVA, the location and size of its office space, and incentive awards—the Board is dependent upon the Administrator and thus cannot be viewed as having the degree of independence that would truly make it free to make decisions that conflict with important VA policies. It is not inconceivable that this lack of job security and dependence on the agency in other areas could affect the extent to which an individual Board member might be willing to render decisions that are not in accord with general agency policy on an issue at a given time.

Mr. President, another point of confusion about the legislation as a result of the VA's testimony concerns the scope of review that a court would apply in its review of a decision by the Board on a factual issue. The scope of review in S. 636 for such matters is a unique and very restrictive standard. A court would be able to set aside a Board finding of fact only when the court determines that the Board's finding is "so utterly lacking in a rational basis in the evidence that a manifest and grievous injustice would result" if the decision were not overturned. Nevertheless, the VA at numerous points in its testimony referred to this standard as a "rational basis" standard and then suggested that a court could find the standard in S. 636 to be the equivalent of the "arbitrary and capricious" standard under the Administrative Procedure Act. I am unable to believe that such a result could occur, particularly in light of the very clear statements by the committee in the reports accompanying S. 349 in the last Congress—S. Rept. No. 97-466, pp. 45-46—and S. 636 in this Congress—S. Rept. No. 98-130, p. 46—regarding this scope of review provision, and I am confident that the confusion reflected in the VA's testimony would not be shared by reviewing courts.

Mr. President, with further reference to the scope-of-review issue, I note the point made in the VA's testimony that the standard incorporated in S. 636 will not result in fewer VA cases being appealed than would be appealed under a less restrictive standard. The VA attempted to buttress this view with the statement that "attorneys will simply draft their pleadings in conformance with whatever standard is provided" in judicial review legislation. However, it was also stated by the VA witness at the committee's hearing and implicit in the VA's testimony that restricting courts to review of questions of law only would somehow limit the number of VA cases appealed to court. These two statements appear to me to be contradictory. If attorneys would be able to draft pleadings to conform to any scope-of-review provision relating to factual issues, they would be able to a like extent to draft pleadings so as to raise matters of law if the scope of review were to be so limited.

In any event, I do not believe that the question of what scope-of-review standard is appropriate to resolve factual issues should be decided ultimately on the basis of how many cases may be appealed under one standard or another; rather, the scope of review incorporated in the legislation should seek to strike an appropriate balance between permitting a reviewing court to correct egregious decisions on factual issues and maintaining the primacy of the BVA as the expert arbiter of factual issues. I believe the standard in S. 636 meets this goal.

CONCLUSION

Mr. President, approval of S. 636 by the Senate today will, I believe, hold out substantial hope to all our Nation's veterans. This legislation promises to those who served their country the same right of independent review of the fairness with which their Government treats them through the Veterans' Administration that is available to virtually all other citizens.

In closing, I want to express my gratitude to my good friend from Wyoming (Mr. SIMPSON) for moving forward on this legislation of such fundamental importance. He and his staff—especially associate counsel H. Scott Wallace, chief counsel Tom Harvey, and legislative director Julie Susman—have been fair, thorough, and most constructive in approaching S. 636. The chairman is owed a great vote of thanks by all veterans for his leadership on the legislation before the Senate today.

Mr. President, I also congratulate my good friend from Colorado, Senator GARY HART, for his long commitment to the cause of judicial review. He has been well and ably assisted on this issue by Bill Holen, a member of his staff who has maintained a strong interest in this legislation. I also want to express my gratitude to my many colleagues who are cosponsors of the measure. The broad, bipartisan support for this measure is demonstrated by the list of 29 sponsors. Action by the Senate today to ratify this support will send a strong signal that Members of the Senate are strongly committed to removing the archaic bar to judicial review and modifying the nonsensical $10 limit on the amount an attorney can be paid and, in so doing, opening the inner working of the VA to the light of day.

I also note the very hard work on this legislation by members of the minority staff on the committee, including Bill Brew, Ed Scott, Jon Steinberg, Ingrid Post, and Charlotte Hughes.

Mr. President, S. 636 as it comes before the Senate today is a measure worthy of my colleagues' support, and I urge that they give it their unanimous backing.

The PRESIDING OFFICER. 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 and was read the third time.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Chair lay before the Senate H.R. 2936, the House companion bill, which is held at the desk.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska?

Mr. BYRD. No objection.

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

The legislative clerk read as follows:

A bill (H.R. 2936) to amend title 38, United States Code, to increase the authorized number of members of the Board of Veterans' Appeals in the Veterans' Administration, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I move that the Senate strike all after the enacting clause of H.R. 2936 and insert in lieu thereof the text of S. 636 as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska.

The motion was agreed to.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 2936) was ordered to a third reading, was read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

TITLE AMENDMENT TO H.R. 2936

Mr. STEVENS. Mr. President, I send to the desk an amendment to the title of H.R. 2936 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Amend the title so as to read:

A bill to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to provide for judicial review of certain final decisions of the Administrator of Veterans' Affairs; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration: and for other purposes.

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

The amendment to the title was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that Calendar No. 196, S. 636, be indefinitely postponed.

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

VETERANS' EMERGENCY JOB TRAINING ACT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Chair lay before the Senate Calendar Order No. 200, S. 1033.

The PRESIDING OFFICER. The bill be stated by title.

The legislative clerk read as follows:

A bill (S. 1033) to amend title 38, United States Code, to establish an emergency job training program for wartime veterans.

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

That this Act may be cited as the "Veterans' Emergency Job Training Act".

SEC. 2. (a) Title 38, United States Code, is amended by inserting after chapter 43 the following new chapter:

"CHAPTER 44—VETERANS' EMERGENCY JOB TRAINING PROGRAM

"Sec.
"2101. Purpose.
"2102. Establishment of program; administration.
"2103. Eligibility; application; certification.
"2104. Employer job training programs.
"2105. Approval of programs.
"2106. Training establishments.
"2107. Nonqualifying programs of training.
"2108. Payments to employers.
"2109. Discontinuance of approval of employer programs; overpayments; penalties.
"2110. Coordination; information and outreach.
"2111. Inspection of records; investigations.
"2112. Termination of program.
"2113. Authorization of appropriations.

"§ 2101. Purpose

"The purpose of this chapter is to address the problem of severe and continuing unemployment among veterans by providing incentives to employers, in the form of payments to defray the costs of training or retraining, to hire wartime veterans who have been unemployed for long periods of time or have job skills that have been rendered obsolete by advances in technology or other industrial changes, for employment in stable, permanent positions that involve significant training or retraining.

"§ 2102. Establishment of program; administration

"(a) The Administrator and the Secretary of Labor (hereinafter in this chapter referred to as 'the Secretary') shall jointly carry out a program in accordance with the provisions of this chapter to assist eligible veterans in obtaining employment in stable, permanent positions that involve significant training or retraining. Assistance under the program shall be in the form of payments made to employers to assist them in defraying the costs of training or retraining eligible veterans employed in such positions.

"(b) Not later than sixty days after the date of the enactment of this chapter but in no event later than October 1, 1983, the Administrator and the Secretary shall enter into an agreement specifying their respective responsibilities for the adminstration of the provisions of this chapter. The agreement shall include specifications that the Administrator shall be responsible for the determination of whether a veteran meets the service requirements under section 2103 of this title and for payments to employers under section 2108 of this title, and that the Secretary shall be responsible for the determination of whether a veteran meets the unemployment requirements under section 2103 of this title and for job development activities under section 2110 of this title. The term 'administering agency' as used hereinafter in this chapter refers to the Veterans' Administration or the Department of Labor or both as specified in such agreement.

"(c) the Secretary shall carry out responsibilities under this chapter through the Assistant Secretary of Labor for Veterans' Employment established under section 2002A of this title.

"§ 2103. Eligibility; application; certification

"(a) For the purposes of this chapter, an eligible veteran is a veteran who—

"(1) acquired entitlement to educational assistance benefits from the Veterans' Administration under a program enacted by the Servicemen's Readjustment Act of 1944, the Veterans' Readjustment Assistance Act of 1952, or the Veterans' Readjustment Benefits Act of 1966 and who served during a period of war; and

"(2)(A) is unemployed and has been unemployed for at least fifteen of the twenty weeks immediately preceding the date of application for participation in a program under this chapter; or

"(B)(i) is unemployed and has been terminated or laid off from employment and is eligible for or has exhausted entitlement to unemployment compensation, and (ii) has no realistic opportunity to return to employment in the same or a similar occupation in the geographical area where the veteran previously held employment.

For the purposes of clause (2) of this subsection, a veteran shall be considered unemployed when the veteran is without a job and wants and is available for work.

"(b) A veteran who desires to undertake a program of job training under this chapter shall submit to the administering agency an application which shall specify the training objective to be pursued and shall be in such form and contain such information as the administering agency shall prescribe. The administering agency shall approve such application unless the administering agency finds that the veteran is (1) not eligible to participate in a program under this chapter, or (2) already qualified for the specified training objective.

"(c) A veteran who has been determined to be eligible under this section shall be certified as such by the administering agency, and the administering agency shall furnish such veteran with a copy of a certification of eligibility for presentation to an employer offering a program of job training under this chapter.

"§ 2104. Employer job training programs

"(a)(1) Except as provided in paragraph (2) of this subsection, in order to qualify as a program of job training under this chapter, a program of job training of an employer must provide training approved under this chapter for a period of not less than six months in an occupation in a growth industry, an occupation requiring the use of new technological skills, or an occupation for which demand exceeds supply.

"(2) A period of training of between three and six months may be approved where the administering agency determines, in accordance with standards which the administering agency shall prescribe, that the purpose of this chapter would be met.

The maximum period of training for which assistance may be paid on behalf of an eligible veteran under this chapter is twelve months, except that such period may be extended by the administering agency for a period of up to six additional months in the case of a veteran with a service-connected disability rated at (1) 30 percent or more, or (2) 10 or 20 percent if such veteran has been determined under section 1506 of this title to have a serious employment handicap.

"(c) Subject to the provisions of this chapter, an eligible veteran approved for participation in a program under this chapter may accept an approved program of job training offered to the veteran by any employer.

"§ 2105. Approval of programs

"(a) An employer may be paid assistance under section 2106 of this title on behalf of an eligible veteran employed by such employer and participating in a program of job training offered by such employer only if such program is approved in accordance with such procedures as the administering agency may by regulation prescribe and if the program meets the other requirements established under this chapter.

"(b) An employer offering a program of job training that the employer desires to have approved for the purposes of this chapter shall submit a written application for such approval. Such application shall be in such form and contain such information as the administering agency shall prescribe and shall contain a certification by the employer—

"(1) that the employer has planned for the employment of the eligible veteran in a position for which such veteran is to be trained and that the employer has no reason to expect that such position will not be available on a stable, permanent basis to such veteran at the end of the training period;

"(2) that the wages and benefits to be paid to an eligible veteran participating in the employer's program of job training will be not less than the wages and benefits normally paid to other employees participating in a comparable program of job training;

"(3) indicating the total number of hours of training to be offered for each eligible veteran, and describing the training content of the program and the objective of the training;

"(4) that the employment of an eligible veteran under this chapter—

"(A) will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits); and

"(B) will not be in a job (i) while any other individual is on layoff from the same or any substantially equivalent job, or (ii) the opening for which was created as a result of the employer having terminated the employment of any regular employee or otherwise having reduced its work force with the intention of hiring a veteran in such job under this chapter;

"(5) that the training content of the program is adequate, in light of the nature of the occupation for which training is to be provided and comparable training opportunities in such occupation, to accomplish the training objective certified under clause (3) of this subsection;

"(6) that the occupation or job for which training is to be provided customarily requires training of not less than an average of thirty hours per week for a period of not less than six months or such other period as may be approved under section 2104(a)(2) of this title;

"(7) that the length of the training period under the proposed program is not longer than the length of programs that employers in the community customarily require new employees to complete in order to become competent in the occupation or job for which training is to be provided;

"(8) that there is in the training establishment or place of employment such space, equipment, instructional material, and instructor personnel as are needed to accomplish the training objective certified under clause (3) of this subsection;

"(9) that the employer will keep records adequate to show the progress made by each veteran participating in the program, and otherwise to demonstrate compliance with the requirements of this chapter; and

"(10) that the program meets such other criteria as may be established by the administering agency.

"(c)(1) Except as provided in paragraph (2) of this subsection, the administering agency shall approve the proposed program of job training unless the administering agency finds that the application does not contain a certification amd other information meeting the requirements of subsection (b) of this section.

"(2) The administering agency may withhold approval pending the outcome of an investigation of any matter under section 2111(c) of this title, and, based on such outcome, may disapprove such program, in accordance with regulations which the administering agency shall prescribe.

"(d) For the purposes of this section, approval of a program of apprenticeship or other on-job training for the purposes of section 1787 of this title shall be considered to meet all requirements for approval of a program of job training under this chapter.

"§ 2106. Training establishments

"Any employer may enter into an arrangement or agreement with an educational institution that has been approved for the enrollment of veterans under chapter 34 of this title in order that such institution may provide a program of job training (or a portion thereof) under this chapter. When such an arrangement or agreement has been entered into, the application of the employer shall so state and set forth a description of the training to be so provided.

"§ 2107. Nonqualifying programs of training

"No assistance under this chapter may be paid on behalf of an eligible veteran participating in a program of job training—

"(1) for employment in a seasonal, intermittent, or temporary job;

"(2) for employment under which commissions are the primary source of income;

"(3) for employment which involves political or religious activities;

"(4) for employment with any department, agency, instrumentality or branch of the Federal Government (including the United States Postal Service and Postal Rate Commission); or

"(5) if the training program will not be carried out in the United States.

"§ 2108. Payments to employers

"(a) Except as provided in subsection (b) and (c) of this section, the administering agency shall make quarterly payments to an employer of an eligible veteran participating in an approved program of job training under this chapter. The amount paid to an employer on behalf of an eligible veteran may not exceed the lesser of—

"(1) 50 percent of the wages paid to the veteran by the employer during the period for which payments are made; or

"(2) an amount for such period calculated on the basis of an annual rate of (A) $9,000 in the case of an eligible veteran with a service-connected disability rated at (i) 30 percent or more, or (ii) 10 or 20 percent if such veteran has been determined to have a serious employment handicap under section 1506 of this title, or (B) $6,000 in the case of any other eligible veteran.

"(b) If an employer to whom payments are made under this chapter is a private, for-profit enterprise employing five hundred or fewer employees, the administering agency may make such payments on a monthly basis.

"(c) Payment may not be made to an employer for a period of training under this chapter on behalf of a veteran until the administering agency has received—

"(1) from the veteran, a certification as to the veteran's actual employment and training with the employer during such period; and

"(2) from the employer, a certification—

"(A) that the veteran was employed, and that the veteran's performance and progress were satisfactory during such period; and

"(B) with respect to the first such certification, indicating the date on which the employment of such veteran began.

"(d) No assistance may be paid on behalf of an eligible veteran under this chapter—

"(1) and to such veteran under chapter 31, 34, and 36 of this title for the same period;

"(2) if the employer is receiving any other form of assistance on account of the training or employment of such veteran, including assistance under the Job Training Partnership Act (96 Stat. 3122; 29 U.S.C. 1501 et seq.); or

"(3) if such veteran has completed a program of job training under this chapter.

"§ 2109. Discontinuance of approval of employer programs; overpayments; penalties

"(a) If the administering agency finds at any time that a program of job training previously approved by the administering agency for the purposes of this chapter thereafter fails to meet any of the requirements established under this chapter, the administering agency may immediately disapprove further participation by eligible veterans under that program. The administering agency shall provide to an employer whose program is disapproved under this section, and to each eligible veteran participating in such program, a statement of the reasons for, and an opportunity for a hearing with respect to, such disapproval. Such employer and such veteran shall be notified of such disapproval, such reasons, and such opportunity by a certified or registered letter, and a return receipt shall be secured.

"(b)(1) Whenever the administering agency finds that an overpayment of assistance under this chapter has been made to an employer on behalf of an eligible veteran as a result of a certification or information contained in an application submitted by an employer which was false or clearly unsupportable in any material respect, the amount of such overpayment shall constitute a liability of the employer to the United States.

"(2) Whenever the administering agency finds that an overpayment of assistance under this chapter has been made to an employer on behalf of an eligible veteran as a result of a certification or information contained in an application submitted by a veteran which was false or clearly unsupportable in any material respect, the amount of such overpayment shall constitute a liability of the veteran to the United States.

"(3) Any overpayment referred to in paragraph (1) or (2) of this subsection may be recovered in the same manner as any other debt due the United States.

"(c) Whenever the administering agency finds that an employer, willfully or with reckless disregard of the facts, has made a false certification under section 2105 or 2108(c)(2) of this title, or any regulation issued thereunder, or has caused the administering agency to make a certification or give approval contrary to such sections, or such regulation, such employer shall be subject to a civil penalty, imposed by the ad-

ministering agency after an adjudication determined on the record after opportunity for a hearing before such agency, of not to exceed $1,000 for each such violation. Such violation shall constitute a separate violation with respect to each individual employed by reason of such wrongful certification or approval. Actions by the administering agency to impose a civil penalty under this subsection shall be reviewable in the district courts of the United States.

"§ 2110. Coordination; information and outreach

"(a) The administering agencies shall provide for an outreach and public information program to inform private industry and business concerns (including small business concerns), educational institutions, trade associations, and labor unions of opportunities under this chapter, and to promote job development by encouraging employers and unions to make training programs available for eligible veterans. The administering agencies shall coordinate such program with those job counseling, placement, job development, and other services provided for under chapters 41 and 42 of this title and with other similar services offered by other public agencies and organizations.

"(b) The administering agencies shall request and obtain from the Administrator of the Small Business Administration a listing of small business concerns, and, on a regular basis, update such listings. Such listings shall be used to identify and promote possible training and employment opportunities for eligible veterans.

"(c) The administering agencies, in consultation and cooperation with the Secretary of Education, shall take appropriate actions to advise educational institutions of the opportunities made available to veterans under this chapter and the opportunity for such institutions to enter into arrangements or agreements with employers pursuant to section 2106 of this title.

"(d) The administering agencies shall assist veterans and employers desiring to participate under this chapter in making application and completing necessary certifications.

"(e) In carrying out responsibilities under this chapter, the Secretary shall make maximum use of the services of State and Assistant State Directors for Veterans' Employment, disabled veterans' outreach program specialists, and employees of local offices appointed pursuant to sections 2003, 2003A, and 2004 of this title. The Secretary shall also use such resources as are available under title IV-C of the Job Training Partnership Act (96 Stat. 1322; 29 U.S.C. 1501 et seq.).

"(f) In carrying out the provisions of this section, the administering agencies shall endeavor to achieve an equitable regional distribution of training opportunities, based on a comparison of regional data concerning the rate of unemployment among veterans of a period of war, and taking into consideration the regional distribution of eligible veterans and approved programs of job training.

"§ 2111. Inspection of records; investigations

"(a) The records and accounts of employers pertaining to veterans on behalf of whom assistance has been paid under this chapter, as well as other records which the administering agencies determine are necessary to ascertain compliance with the requirements established under this chapter, shall be available at reasonable times for examination by authorized representatives of the Federal Government.

"(b) The administering agencies may monitor all participants under this chapter to determine whether they are complying with the requirements established under this chapter.

"(c) The administering agencies may investigate any matter they deem necessary to determine compliance with the requirements established under this chapter. The investigations authorized by this subsection may include examining records (including making certified copies thereof), questioning employees, and entering into any premises or onto any site where any part of a program of job training is conducted under this chapter, or where any of the records of the employer offering or providing such program are kept.

"§ 2112. Termination of program

"Assistance may not be paid to an employer under this chapter—

"(1) on behalf of a veteran who applies for a program of job training under this chapter after September 30, 1984; or

"(2) for any such program which commences after December 31, 1984.

"§ 2113. Authorization of appropriations

"There is authorized to be appropriated to the Administrator $150,000,000 for the purpose of making payments to employers under this chapter.".

(b) The table of chapters at the beginning of such title and at the beginning of part III of such title are each amended by inserting after the item relating to chapter 43 the following new item:

"44. Veterans' Emergency Job Training Program ..... 2101.".

(c)(1) Notwithstanding the provisions of section 2112 of title 38, United States Code (as added by subsection (a)), in the event that funds are not both appropriated under section 2113 of such title (as added by subsection (a)) and made available by the Director of the Office of Management and Budget to the Veterans' Administration on or before October 1, 1983, for the purpose of making payments to employers under chapter 44 of such title (as added by subsection (a)), assistance may be paid to an employer under such chapter on behalf of any eligible veteran if such veteran—

(A) applies for a program of job training under such chapter within one year after the date on which funds so appropriated are made available to the Veterans' Administration by the Director, and

(B) commences participation in such program within fifteen months after such date.

(2) For the purposes of this subsection, the term "eligible veteran" shall have the meaning provided in section 2103(a) of such title (as added by subsection (a)).

SEC. 3. The amendments made by this Act shall take effect on October 1, 1983.

Mr. SIMPSON. Mr. President, I am pleased to present to the Senate for its consideration S. 1033, the Veterans' Emergency Job Training Act. This bill would establish a 1-year program of payments to employers to cover the costs of training unemployed veterans in jobs that are likely to evolve into stable, permanent positions.

S. 1033 was introduced by me on April 12, 1983, and the version that is before the Senate today is a painstakingly worked out combination of the best features of S. 1033 and of S. 992, the Veterans' Emergency Retraining Act of 1983, which was introduced by the distinguished ranking minority member of the Veterans' Affairs Committee (Mr. CRANSTON) on April 6, 1983.

Mr. President, the unemployment rate among wartime veterans rose in February of this year to the highest level since World War II. Unemployment among Vietnam-era veterans remains at levels significantly higher than among nonveterans of the same age. Although recent figures from the Bureau of Labor Statistics in the Department of Labor suggest that the situation is improving, they also show that the problem persists, and that the disparity between veterans and nonveterans remains significant.

In May, some 700,000 veterans were unemployed and looking for work. This bill is designed not only to get veterans working again, but to narrow the unemployment gap between veterans and their civilian counterparts whose education and employment were not interrupted by military service—and to do so on a short-term, emergency basis, in order to ride out the worst of the present economic recession which has contributed so heavily to unemployment nationwide.

Eligibility under this bill would be extended to all wartime veterans of World War II, the Korean war and the Vietnam era who fall into the category of what might be described as "hardcore unemployed," that is, veterans who have either been unemployed for at least 15 out of the last 20 weeks, or who are unemployed and have no realistic opportunity to get another job in the same line of work and in the same geographic area. This no realistic opportunity group would encompass workers whose job skills have been rendered obsolete by advances in technology or other industrial changes, such as steelworkers in a steel-working ghost town. Clearly, there is little point in requiring such a person to collect unemployment compensation for 15 weeks before he can be considered sufficiently unemployed to qualify for training under this program.

An eligible veteran could join up with a job training program offered by any qualified employer for a period of up to 12 months, and certain service-connected disabled veterans could participate for up to 18 months. The rate of payment—which might be referred to as the training subsidy to the employer on behalf of the veteran—would be 50 percent of the wages paid by the employer to the veteran during the period of training, up to a limit of $6,000 a year, or $9,000 in the case of certain service-connected disabled veterans.

The program that would be established under this legislation would be jointly administered by the VA and the Department of Labor, according to their respective experience and abili-

ties. Upon passage of the bill, they would be required to enter promptly into an interagency agreement setting forth the responsibilities of each. In some areas, the bill specifies which agency should get what responsibilities; these are areas where our hearings and other inquiries indicated that a particular function was clearly more appropriate for one agency than the other. But in other areas, where the optimum division of responsibilities was not so clear, the bill would leave it up to the agencies to determine between themselves the issue of which agency is best suited to perform a particular task. The areas which the bill would specifically mandate to one agency or the other include the following: For the VA, the determination of whether the veteran meets all the appropriate wartime service requirements under the bill, and the responsibility for making payments to employers—that is, the actual issuing of the job training payments on a quarterly basis. The Department of Labor's mandated responsibilities include determinations as to whether a veteran meets the various unemployment requirements for eligibility, as well as job development activities. The bill would also mandate that, no matter which agency ends up with primary responsibility for information and outreach efforts, the program should be coordinated with all job counseling, placement, job development, and other services provided for under chapters 41 and 42 of title 38, and that the Department of Labor should make maximum use, in carrying out all of its responsibilities under the program, of the services of State and assistant State directors for veterans' employment, DVOP specialists, and employees of local offices appointed pursuant to sections 2003, 2003(a), and 2004 of title 38. The bill also provides that the Secretary of Labor should take advantage of such resources as may be available under the veterans' training portion—title IV-C—of the Job Training Partnership Act.

Under the program proposed in S. 1033, an interested veteran would be required to submit an application, meeting such requirements as may be specified by the agency in charge of such applications, and a veteran who is determined to be eligible and whose application is approved would then be furnished with a certificate of approval by the agency for presentation to a participating employer offering the program of job training.

An employer offering a program of job training would be required to submit a similar application, but the information furnished in connection with such an application would be considerably more thorough. The application would have to be accompanied by a certification by the employer that the proposed program of training meets 10 separate criteria specified in the bill. The employer would be required to certify, for example, that the employer has made plans for the continuing employment of the veteran after the period of training and that the employer has no reason to expect that an appropriate position will not be available on a stable, permanent basis; that the veteran's wages will be no less than is customary in the business; that the employment of the veteran will not contribute to the unemployment of another employee of that employer; that the training content of the offered program is adequate to achieve the desired effect; that the occupation for which training is to be provided customarily requires full-time training for neither more nor less than the period of training proposed by the employer; and that the employer has all the necessary training facilities and will keep all the appropriate records to carry out the offered training program.

When an application containing all the appropriate certifications is submitted by an employer, the bill requires, in general, that it must be approved. The administering agency would not be required to look behind the application or to conduct any investigation, although it would be authorized to conduct preapproval investigations for either of two reasons: First, where the application appears adequate on its face, but there are surrounding circumstances which suggest a reasonable doubt about a particular employer's ability to comply with all the necessary requirements; and second, where the administering agency chooses to institute a program of random, spot checks, designed in a nondiscriminatory manner to insure compliance with the requirements of the program. One alternative to this approval procedure would be that a training program which has already been approved by the VA for purposes of apprenticeship or on-job-training would be deemed to satisfy all the approval requirements of the bill. The thrust of all these provisions is to minimize the administrative approval time, in order to bring employers and veterans into the program as quickly as possible, while still permitting a reasonable amount of administrative control over the application and approval process.

The bill also contemplates that both employers and veterans would be assisted in making their applications and certifications by the appropriate agency personnel. Again, the emphasis here is on expediting the implementation of the program, but also on making it as attractive as possible to all qualified employers and veterans.

Some other provisions of the bill are aimed primarily at discouraging the possibility of employer abuses of the program. For example, a false certification or application would result in an overpayment, which would be collectable through the normal Federal debt collection machinery, and when an application or certification was intentionally or recklessly false, the employer would be subject to a civil penalty of up to $1,000 for each veteran wrongfully employed. In addition, the records of the employer would be subject to inspection, individual programs could be monitored to verify compliance, and the administering agencies could conduct investigations into any matter they deem necessary to determine compliance, including examining records, questioning employees and entering into the place of training. These last two provisions are essentially similar to provisions contained in the JTPA.

The program that would be established under this bill is authorized at a level of $150 million, and I would emphasize that it is intended to run for a full year—that is, if, for some reason, the money is not appropriated or made available by the start of fiscal year 1984, the program would be open for a full year from the date that funding actually becomes available.

The bill authorizes payments to small businesses on a monthly, rather than quarterly basis. I should stress my expectation that this option be exercised by small businesses, rather than by the VA. I would expect that the VA would approve monthly payments to all qualifying small business employers who choose to exercise that option.

I would also note that S. 1033 speaks in terms of the "training objective" rather than focusing on the completion of a program of training. The purpose of this distinction is to recognize that some programs of training may take longer than the maximum periods of eligibility under the bill—that is, 12 months in the case of any veteran other than a service-connected veteran. Where, for example, a particular occupation requires 2 years of full-time training, our intention is not to discourage participation in such a program, but to encourage veterans to sign up for such training programs and to complete as much as they can of the necessary training under the auspices of this legislation. The expectation is that the full training program will be completed, even though a portion of it is not subject to assistance under the bill. In such a case, the training objective to be certified would be that level of training achievable by the 1-year mark in a 2-year program of training.

Mr. President, the vote on S. 1033 in the Veterans' Affairs Committee was unanimous. There was, however, one particular issue to which the committee devoted considerable attention during the committee markup—that is,

the issue of whether the program should be funded as an entitlement or through an authorization of appropriations. Ultimately, the committee chose the authorization-of-appropriations route, and I believe this was a wise choice for a number of reasons. This is a short-term, emergency program, to be administered in significant part by the Department of Labor—an agency through which we have never before funded an entitlement program for veterans. Moreover, with the prospect of record high deficits continuing indefinitely, and the intense competition for scarce Federal dollars, I strongly believe that we should be extremely reluctant to embark upon new entitlement programs, or to expand old ones, and thus to forsake meaningful congressional control over the level of such spending. I would emphasize that the budget for veterans' benefits and services which is contained in the first concurrent budget resolution for fiscal year 1984 and which is now making its way through the congressional appropriations process, in H.R. 3133, the HUD-independent agencies appropriations bill for fiscal year 1984, is a very substantial one, and represents an increase of approximately $1.3 billion over last year's budget. It is a budget that all of the major veterans' organizations joined in praising before the Veterans' Affairs Committee. Seen in this light, I believe that the $150 million program authorized by this bill, and subject to appropriations, is an excellent program, and represents a very substantial commitment of money to the problem of unemployment among veterans. It is worth remembering that last year, in approving the Job Training Partnership Act, considerable satisfaction and pride was expressed at the earmarking of $9.4 million to address specifically the employment problems of certain Vietnam-era and disabled veterans.

Appropriations for existing VA entitlement programs will total more than $15 billion in fiscal year 1984. It would not be well to add another entitlement fiscal burden at this time.

I would note that the House of Representatives has already passed a similar bill, H.R. 2355, the Emergency Vietnam Veterans' Jobs Training Act of 1983, which is framed as an authorization of appropriations. And I would further note that the Appropriations Committee, in marking up H.R. 3133 2 days ago, adopted an amendment to provide the necessary $150 million funding for this legislation.

Mr. President, I wish to thank the distinguished ranking minority member of the Veterans' Affairs Committee (Mr. CRANSTON) for the excellent spirit of cooperation with which he worked with me on putting together the provisions of this legislation. I would also like to thank the committee staff members that labored so diligently over the formulating and drafting of this legislation—principally Scott Wallace, Tom Harvey, Julie Susman, Harold Carter, Laurie Altemose, Becky Hucks, and Kay Eckhardt of the majority staff, and Babette Polzer and Jon Steinberg of the minority staff. Their efforts have contributed mightily to the very thorough and well-thought-out measure that I present before the Senate today.

Mr. President, I believe that this legislation is timely, necessary, and well drafted to accomplish its intended goals. I strongly urge my colleagues to lend their wholehearted support to it.

Mr. President, I ask that there be inserted in the RECORD at the conclusion of my remarks the committee summary of provisions on S. 1033, as well as a copy of a letter from Senators HATFIELD, GARN, and STENNIS to myself and the Senator from California on the entitlement issue.

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

SUMMARY OF PROVISIONS

S. 1033 as reported would amend part III of title 38, United States Code, Readjustment and Related Benefits, to add a new chapter 44, entitled "Veterans' Emergency Job Training Act". This new chapter would establish an emergency job training program for wartime veterans.

Included in the new chapter are provisions that would:

1. Address the problem of severe and continuing unemployment among veterans by establishing a job training program under which employers would be provided incentives (in the form of payments to defray the costs of training or retraining) to employ in stable, permanent positions that involve significant training or retraining certain wartime veterans who have been unemployed for long periods of time or whose job skills have been rendered obsolete by advances in technology or other industrial changes.

2. Require the Administrator of Veterans' Affairs and the Secretary of Labor jointly to carry out the new job training program established by the new chapter and to enter into an agreement specifying the responsibilities of the Veterans' Administration and the Department of Labor for the administration of the program.

3. Provide eligibility for the new program to wartime veterans who at any time acquired entitlement to an education assistance benefit (either the so-called World War II, Korean conflict, or Vietnam-era GI Bills) and who are unemployed under specified circumstances.

4. Provide that, in order to be approved as a program of job training for the purposes of new chapter 44, a training program offered by an employer must provide training for a period of not less than six months in an occupation in a growth industry, an occupation requiring the use of new technological skills, or an occupation for which demand exceeds supply, but would permit such programs of between three and six months duration to be approved in certain cases.

5. Limit the maximum period of training during which assistance may be paid to an employer on behalf of an eligible veteran to twelve months, but permit the twelve-month period to be extended for an additional six months in the cases of seriously disabled service-connected veterans.

6. Permit employers to enter into agreements with certain educational institutions for those institutions to provide programs of job training.

7. Provide that payments of assistance on behalf of an eligible veteran shall be made generally on a quarterly basis, upon receipt of certain required certifications from the employer and the veteran, and that such payments shall equal the lesser of 50 percent of the wages paid by the employer to the veteran or an amount based on a $6,000 annual rate (or $9,000 annual rate in the case of seriously disabled service-connected veterans).

8. Permit the payment of assistance to be made on a monthly basis in the case of certain small businesses.

9. Require the conduct of an outreach and public information program, utilizing the services of certain Department of Labor personnel, to maximize training opportunities.

10. Require coordination and consultation with the Secretary of Education and the Administrator of the Small Business Administration to promote maximum job training and employment opportunities under the new program.

11. Prohibit duplication of benefit payments and establish mechanisms to investigate and penalize employers and veterans making false applications or certifications.

12. Prohibit the payment of assistance to an employer on behalf of an eligible veteran if such veteran did not apply for the new chapter 44 program prior to October 1, 1984, and initiate training prior to January 1, 1985.

13. Authorize the appropriation to the Administrator of the VA of $150,000,000 for the purpose of making payments to employers under the new chapter 44 program.

The Committee bill also would provide that, in the event that funds are not made available to the VA for the new program on or before October 1, 1983, assistance may be paid to an employer if an eligible veteran applies for a program of job training within one year after the date on which funds are made available and commences participation in a program within fifteen months after that date.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., May 10, 1983.

Hon. ALAN K. SIMPSON,
Hon. ALAN CRANSTON,
Veterans' Affairs Committee, Washington, D.C.

DEAR AL AND ALAN: We understand that the Veterans' Affairs Committee is currently considering the enactment of additional entitlement legislation in order to provide a new job training program for unemployed veterans. While we endorse the concept of providing training opportunities for unemployed veterans, we do not feel the Congress can afford to establish new entitlement programs which are beyond the spending review of the Congress and which raise the very serious possibility of having to make further cuts in nonentitlement programs.

As you are well aware, the proliferation of entitlement programs have put pressure on the discretionary programs, making it more and more difficult for the Congress to provide appropriate levels of funding for many worthwhile programs. For example, in fiscal year 1980, 24.4 percent of total Federal outlays were associated with nondefense discretionary programs. In fiscal year 1983, this

decreased to 18.1 percent and it is now projected to be reduced to 16.4 percent by fiscal year 1986. As a result of increases in the entitlement programs, worthwhile activities such as the VA's Medical Care, Major Construction, and the Medical and Prosthetic Research will have to compete for a smaller and smaller portion of the Federal budget.

We would also oppose the notion of a "limited entitlement" i.e., one that is limited both in time (by a sunset provision) and in amount (by a dollar cap). We would have to conclude that such a program resembles an appropriated account far more than an entitlement, and bears the label of entitlement primarily to circumvent the appropriations process. Clearly, such a program would set a very questionable precedent in terms of this Committee's responsibility to oversee and coordinate Federal spending.

We would hope that your committee would authorize the program in the traditional manner so that the Congress can weigh the relative priority of this program through the regular appropriation process.

Sincerely,

JOHN C. STENNIS.
MARK O. HATFIELD.
JAKE GARN.

Mr. CRANSTON. Mr. President, as the ranking minority member on the Committee on Veterans' Affairs, I am delighted to join with the distinguished chairman of the Committee (Mr. SIMPSON) in urging the Senate to approve the pending measure—S. 1033, the proposed Veterans' Emergency Job Training Act. This legislation is an excellent measure and well deserves the Senate's support. If enacted, it would provide a carefully designed framework for responding to the very serious, extensive unemployment problems of our Nation's wartime veterans.

The committee, both majority and minority, worked closely together in blending the provisions of the two measures that were pending before it: S. 992, the proposed Veterans Emergency Retraining Act of 1983, which I introduced on April 6, and S. 1033 as it was introduced by the chairman of the committee on April 12. The end result is an example of bipartisanship that serves as a demonstration of the committee's continuing concern for and commitment to our Nation's veterans.

The development of this measure is a direct result of actions taken at the Veterans' Affairs Committee's meeting on March 1 to consider recommendations to the Senate Budget Committee on the fiscal year 1984 budget. At that time, the committee unanimously approved my motion to add $150 million to our recommendations for fiscal year 1984 in order to permit us the latitude to consider either a 15-percent GI bill rate increase, as proposed in S. 9, which I introduced on January 26, or a veterans' employment and retraining initiative, such as that which I had under development at that time and subsequently introduced as S. 992, or a combination of those two items. The Senate Budget Committee approved our committee's recommendation in this area and, consistent with my motion, included in its recommended first concurrent budget resolution for fiscal year 1984 budget authority and outlays for fiscal years 1984, 1985, and 1986 sufficient to accommodate such legislation. The Senate passed a budget resolution on May 19 with those amounts included.

Mr. President, when I introduced S. 992 and at the time of the committee's hearing on jobs legislation on April 20, I set forth three basic elements which I believed were vital for inclusion in any program the committee developed and which I urged that the committee use as the basis for its consideration of legislation in this area.

First, such a program needs to be competitive with other job training and retraining programs conducted by the Federal Government—particularly those conducted under the Job Training Partnership Act. I believe that S. 1033 as reported and presented to the Senate today meets that test.

Second, the program should avoid costly and time-consuming administrative requirements and rigidities so as not to discourage potential employers from participating in it and to keep redtape, delays, and paperwork to a minimum. Again, the committee bill does this.

Indeed, I am pleased that the basic provisions of my measure, S. 992, regarding the level and duration of assistance payments, administrative flexibility for employers and the administering agencies, and joint administration by the VA and the Labor Department—provisions designed to fulfill both the first and second objectives outlined above—were approved by the committee. Likewise, Mr. President, I am pleased that the provisions derived from my measure to provide a special incentive for employers to hire and train seriously disabled, service-connected veterans—by increasing the maximum amount of assistance that may be paid and by permitting an extension of the training period—and to establish a simplified approval process based on employer certifications, rather than investigations, have been incorporated into the committee bill.

The third basic element that I set forth was not met—that is, that the program needed to be established as a temporary, limited entitlement not requiring an appropriation before it could begin, rather than as an authorization of appropriations.

At the time that the committee considered this measure on May 11, I felt strongly that reliance on an authorization of appropriations ran a substantial risk of the program never being funded, or of being funded at a level substantially less than the level approved by the committee. At best, I was concerned that an authorization approach could serve to delay substantially—and perhaps for a protracted period—the implementation of the program authorized by the committee bill.

Despite my efforts in proposing two amendments that incorporated an entitlement approach—amendments which failed on 6-to-6 votes—the measure was reported as an authorization.

However, I am very pleased to report to my colleagues that my concerns have been substantially allayed by action taken just yesterday morning in the Committee on Appropriations in connection with its consideration of H.R. 3133, the proposed HUD-Independent Agencies Appropriations Act, 1984.

On June 8, the distinguished chairman of the Veterans' Affairs Committee joined me in a letter to the chairman and ranking minority member of the Appropriations Subcommittee on HUD-Independent Agencies urging that the full $150 million for the new veterans job program be included in H.R. 3133 contingent on the enactment of the authorizing legislation. Pursuant to our recommendation, the committee approved, by a 15-to-7 vote, a motion made by the distinguished Senator from Arizona (Mr. DECONCINI), who serves on both the Committees on Appropriations and on Veterans' Affairs, to add $150 million to the VA's readjustment benefits account for the purposes of funding this new job training proposal, contingent on the enactment of the legislation we are considering today.

I am delighted by this result, and I congratulate the Appropriations Committee on its sound judgment. It means that, when enacted, the measure before us today will—if the $150 million is retained in conference on H.R. 3133, as seems likely since the House passed the companion bill, H.R. 2355, by a vote of 407 to 10, on June 7—be able to be implemented expeditiously and in a timely fashion. It means that veterans will not be forced to wait out another appropriations cycle before training opportunities are made available.

Mr. President, the need for the pending measure is virtually indisputable. The seriousness of unemployment among veterans is well documented. Indeed, in testimony before the committee in April, the Department of Labor stated that—

There is a significant employment problem for veterans, particularly for Vietnam-era and disabled veterans and * * * new and effective job training approaches for these veterans must be developed.

The VA agreed with that assessment.

Although official Bureau of Labor Statistics data for veterans generally or disabled veterans are not published, data are available for Vietnam-era veterans. In May, the rates of unemployment among Vietnam-era veterans ex-

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ceeded the rates of unemployment among non-Vietnam-era veterans in every age category for which statistics are available, and, with only one exception, the rates in each category were higher in May than they were in April. This is particularly significant since national unemployment dropped by one-tenth of 1 percent in May.

Mr. President, before concluding my remarks, I want to take this opportunity to extend my thanks to the chairman and those members of the committee's majority staff who worked so diligently on this measure as well as my appreciation for the cooperation and courtesy that was extended to the members of the committee's minority staff. In particular, I want to note the efforts of Tom Harvey, Julie Susman, and Scott Wallace of the majority staff and Jon Steinberg, Ed Scott, and Babette Polzer of the minority staff.

Mr. President, this measure is as I noted at the outset, an excellent one, and, by virtue of the fact that it appears likely that appropriations to get the program underway will be made available promptly, enactment of the bill would enable the Federal Government to begin in October of this year to offer much-needed help to veterans who are out of work and lack the skills necessary to compete in today's changing labor market.

I urge the Senate to give this legislation its overwhelming approval.

Mr. President, I ask unanimous consent that a copy of our June 8 letter to which I referred earlier be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., June 8, 1983.

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

DEAR JAKE AND DEE: We are writing to urge you to include in the HUD-Independent Agencies fiscal year 1984 appropriations measure (H.R. 3133) $150 million to fund an emergency jobs training measure for veterans.

As you may know, on May 11, this Committee ordered favorably reported S. 1033, the proposed "Veterans' Emergency Job Training Act of 1983". That measure, which was reported on May 19, would establish a program to combat high umemployment among certain wartime veterans by providing incentives to employers to hire and train wartime veterans for stable, permanent employment. The legislation would authorize the appropriation of $150 million for incentive payments to employers under the program. On June 7, the House of Representatives passed H.R. 2355, the proposed "Emergency Vietnam Veterans' Jobs Training Act of 1983", by a vote of 407 to 10. That measure, which would establish an emergency program of job training assistance for disabled veterans and veterans of the Vietnam era, authorizes the appropriation of $150 million in each of fiscal years 1984 and 1985 as well as $25 million in fiscal year 1983. Thus, it appears almost certain that legislation authorizing the appropriation of $150 million to the Veterans' Administration for a new veterans job training program will be considered and approved by the Congress this year.

In addition, in H. Con. Res. 91, the First Concurrent Resolution on the Budget for FY 1984 as passed by the Senate, provision was made, at our Committee's request, for the funding of such an emergency employment measure.

The seriousness of unemployment among veterans is well-documented. Indeed, in testimony before this Committee, the Department of Labor stated that "there is a significant employment problem for veterans, particularly for Vietnam-era and disabled veterans and . . . new and effective job training approaches for these veterans must be developed." The VA agreed with that assessment. We believe that the $150 million authorization contained in S. 1033 is fully justified in light of the severity of the problem.

We further stress that the strong and clear intention of the authorizing Committees that whatever measure is enacted be considered an emergency measure and be implemented as quickly as possible. To this end, we believe the program should be funded and ready to begin no later than October 1, 1983. In this connection, we note that in a letter dated May 10, 1983, Senators Hatfield, Stennis, and Garn endorsed the concept of providing training opportunities for unemployed veterans but recommended that the Veterans' Affairs Committee report a measure with an authorization of appropriations that would subject the new program to the appropriations process. Both S. 1033 and H.R. 2355 contain such an authorization.

Thus, we strongly urge that, during your Subcommittee's consideration of H.R. 3133, you include $150 million for the new program, to remain available until expended. However, because the authorizing legislation will not be enacted by the time of Subcommittee mark-up, we suggest that the funding be made subject to the enactment of S. 1033/H.R. 2355. Enclosed is a copy of suggested language to accomplish this end.

Thank you for your cooperation in this matter.

With warm regards,
Cordially,

ALAN K. SIMPSON,
Chairman.
ALAN CRANSTON,
Ranking Minority Member.

Mr. PRESSLER. Mr. President, it is with great pleasure that I rise to speak in support of this measure today. An employment program for veterans is a concept that I have promoted for many years. I am glad to see that the time has come for a program of this sort.

The first piece of legislation I introduced in the 97th Congress was S. 26, the Vietnam Veterans' Readjustment, Recruitment, and Retention Assistance Act. This committee held hearings on the bill in July and August of 1981. There are great similarities between the ideas embodied in my bill and those in the bill now before the Senate, and this is very gratifying to note.

As a Vietnam veteran, I have long been concerned about the employment problems of my fellow veterans. At the end of May of this year, the unemployment rate for male Vietnam veterans between 25 and 39 years of age was 10.2 percent. For nonveterans in this same age group, the rate was 9.3 percent. Considering the preferences supposedly given to veterans in hiring, this rate is clearly unacceptable.

One of the big problems with today's unemployment situation is that a large part—50 percent—consists of what is known as structural unemployment. People who fall into this category are out of work because their jobs are being phased out of the national economy. As a result, they have very little chance of getting another job without some retraining. Unless these people are able to find an employer who can afford to train them on the job or they can finance their own retraining, they will have difficulty in finding a job. For this reason, I believe that a large part of our effort to reduce unemployment should focus on retraining. The training opportunities that will be provided to veterans through this legislation will do a great deal in helping our veterans to take their rightful place in the work force.

In the testimony I gave before the Veterans' Affairs Committee with regard to this legislation, I made several suggestions as to changes that might be made in the bill. I am pleased to note that some of these alterations have been made. The version of the bill which we consider today, for instance, provides that the Veterans' Administration has a major role in the administration of the job training program. The original version placed much more authority in the hands of the Department of Labor, which is ill equipped to handle some of the necessary functions of this legislation. This change, which I advocated, will make the program easier to implement and will, consequently, get assistance to our out-of-work veterans sooner.

I offer my thanks to my distinguished colleague from Wyoming, the chairman of the committee, as well as the other members of the committee, for the fine work they have done on this bill. It is an important and timely piece of legislation, and its only fault may be that it is too little, too late. It is sadly evident to me that we owe our veterans much more than we have given them so far. It is my hope that my colleagues will support this measure and that we will soon have an effective jobs program for veterans. It is an idea whose time has come.

AMENDMENT NO. 1407

Purpose: To authorize the administrative reorganization of certain Veterans' Administration offices

Mr. STEVENS. Mr. President, I send to the desk an amendment on behalf of Senator SIMPSON and Senator CRANSTON.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for Senator SIMPSON and Senator CRANSTON, proposes an amendment numbered 1407.

Mr. STEVENS. 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 15, between lines 14 and 15 insert "TITLE I—VETERANS' EMERGENCY JOB TRAINING PROGRAM".

On page 15, line 15, strike out "SEC. 2" and insert in lieu thereof "SEC. 101".

On page 32, line 20, strike out "SEC. 3" and "Act" and insert in lieu thereof "SEC. 102" and "title", respectively.

Add at the end of the bill the following new title:

TITLE II—VETERANS' ADMINISTRATION REORGANIZATION

SEC. 201. The requirements of section 210(b)(2)(A) of title 38, United States Code, shall not apply to the planned administrative reorganization at the Veterans' Administration Rehabilitation Engineering Center (hereinafter in this section referred to as "VAREC") at 252 Seventh Avenue, New York, New York, involving—

(1) the transfer to the Veterans' Administration Medical Center, New York, of 24 full-time equivalent employees from the VAREC Special Clinic team, 5 full-time equivalent employees from the VAREC Restoration Laboratory, and 4 full-time equivalent employees from the VAREC Research and Development Service;

(2) the administrative reassignment from the VAREC of 8 employees (in addition to those described in clause (1)) who are orthotists or prosthetists and whose work stations are at nearby Veterans' Administration medical centers to those medical centers; and

(3) the reorganization of elements of the VAREC not providing direct patient services so as to continue them at 252 Seventh Avenue as the "Veterans' Administration Prosthetic Technology and Information Center", under the direct supervision of the Director, Prosthetic and Sensory Aids Service, Department of Medicine and Surgery, Veterans' Administration Central Office.

Mr. SIMPSON. Mr. President, I am pleased to join with my good friend, the ranking minority member of the Veterans' Affairs Committee, Mr. CRANSTON, in submitting a noncontroversial amendment to S. 1033. The substance of this amendment—relating to a staffing reorganization in the Veterans' Administration—is not related to the subject matter of S. 1033. Rather, we are proposing to add it to S. 1033 because of the need to insure early enactment of the provisions of our amendment.

Mr. President, I will ask that a May 12, 1983, letter to me from the VA Chief Medical Director, Donald M. Custis, M.D., be printed in the RECORD at the conclusion of my remarks. In that letter, Dr. Custis explains in some detail the specific organizational and administrative situation that prompts this amendment. Stated very briefly, the VA is seeking to accomplish an interagency transfer of 41 employees between two VA offices in connection with the agency's plans to improve the Department of Medicine and Surgery's efforts to more rapidly meet the challenge of new technology in prosthetics and sensory aids while continuing to provide direct health care services to veterans in this important area.

As Dr. Custis noted in his letter, the reorganization plans for the VA Rehabilitation Engineering Center (VAREC) at 252 Seventh Avenue, New York, N.Y., which would require the personnel administrative reassignments, are based on results from the report of a task force appointed to review and make recommendations for the future mission and organization alinements of VAREC. The personnel transfers would place direct patient care services in VA medical centers and will group nondirect patient care programs into a VA Prosthetic Technology and Information Center under the VA Central Office Director of Prosthetic and Sensory Aids. Under current law—section 210(b)(2) of title 38, United States Code—the VA is generally prohibited from reducing the staff at any of its offices by more than 10 percent in any fiscal year without an advance notice to the Congress submitted not later than the day on which the President submits to the Congress the budget for that fiscal year. The VA notified this committee on January 11, 1983, that this transfer was planned.

The assignment of the VAREC special clinic team to a medical center is especially noteworthy. VAREC was established to provide a national program through which eligible veterans could request directly specialized services and devices without going through the normal slow-moving agency channels. My understanding is that the special clinic team would be charged with facilitating such results. Therefore, it would seem desirable that plans be considered to expand the reach of this important service, perhaps by locating such a team in each medical region in order to enhance the abilities of all medical centers in addressing this particular aspect of direct patient care. This action would also go a long way toward the elimination of past concerns that VAREC's service was directed more toward veterans in the New York metropolitan area rather than veterans throughout the country. I believe that the decision to place the first special clinic team in the Manhattan VA Medical Center was based on statistics which have shown the overwhelming majority of special requests which would be handled by such a team originate in the greater New York metropolitan area.

I would encourage the VA to insure that this move accomplish the purpose for which it has been designed. To accomplish that end, it is important that adequate space for personnel and equipment be provided and that a core number of personnel expert in this area be preserved so that this first team may serve as a training resource to the future special clinic teams which we believe should be established in the various medical districts.

Mr. President, the proposed transfer would promote better organization and delivery of health-care services to our Nation's veterans, and would not require additional appropriations. In order to enable these actions to take place before October 1, enactment of this amendment is necessary. Nothing would be gained by waiting for the clock to run in this case, since the VA has clearly justified the need for and reasons behind the planned reorganization. I know of no opposition to the proposed transfer.

Mr. President, I ask unanimous consent that the letter mentioned earlier from the VA Chief Medical Director, dated May 12, 1983, be printed in the RECORD.

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

VETERANS' ADMINISTRATION,
Washington, D.C., May 12, 1983.

HON. ALAN K. SIMPSON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to a telephone request of March 21, 1983, by Ms. Julie Susman of your office concerning our Department of Medicine and Surgery's plan for the VA Rehabilitation Engineering Center (VAREC).

The Veterans Administration is determined to regain and expand the leadership role assigned by Congress at the end of World War II in the area of prosthetics and sensory aids. In keeping with that dedication, I have initiated several important actions over the past three years. A new director of the Prosthetic and Sensory Aids Service in VA Central Office was appointed two and one-half years ago. The staff of the Prosthetic and Sensory Aids Service within the Office of Professional Services has been increased by five new positions. Two years ago, I appointed a task force to review and make recommendations for the future missions and organizational alignments of the various program elements of VAREC at 252 Seventh Avenue, New York, New York. I have accepted and approved all of the task force's recommendations with a few caveats or minor modifications. This letter refers to the implementation of those recommendations.

Those program elements that provided direct patient care will be administratively reassigned and physically transferred to appropriate nearby VA medical centers. The

purpose is to place these services in the mainstream of patient care activities. The Special Clinic Team (five employees), those orthotists and prosthetists physically located at 252 Seventh Avenue (24 employees), and the Restoration Laboratory (five employees) will be administratively reassigned to the VA Medical Center, New York, New York, approximately one mile from the location of VAREC. Ward 14 South at the medical center will be renovated to accommodate the move. The anticipated completion date of that project is February 1985. Until that project is completed, these programs would physically remain at 252 Seventh Avenue. They will be administratively reassigned to the VA Medical Center, New York, as soon as possible in compliance with 38 U.S.C. 210(b)(2); i.e., October 1, 1983.

These elements will continue to perform their traditional service functions, whether at 252 Seventh Avenue or after the move to the medical center, providing care for any patients referred to them from any part of the United States. In addition, the Special Clinic Team will serve as the nucleus for development of a special amputee service which will be directed by a physician.

The necessary funds for personal services, equipment and supplies, etc., will be allocated to the VA Medical Center, New York, from the VAREC allocation.

Additionally, the four employees that constitute the research section of the Research and Development Service of VAREC will be administratively reassigned to the Engineering Service at the VA Medical Center, New York. This reassignment is independent of the reassignment of the Special Clinic Team, orthotists/prosthetists and restoration technicians, so it is not dependent upon the renovation project. Consequently, it can be accomplished on October 1, 1983.

Those orthotists and prosthetists administratively assigned to VAREC but whose work station has been at nearby VA medical centers will be administratively reassigned to those medical centers. Those employees are not included in the 24 prosthetist/orthotist employees listed in the Prosthetist/Orthotist Service being moved to VA Medical Center, New York. This is an administrative change and will not involve a move by the personnel since their permanent work stations are at those medical centers. The St. Albans Division of the VA Medical Center, Brooklyn, New York, will receive one employee; the East Orange, New Jersey, Medical Center will receive two employees; the Bronx, New York, Medical Center will receive two employees, and the Castle Point, New York, Medical Center will receive three employees. The necessary funds for personal services costs will be allocated to the respective VA medical centers from the VAREC allocation.

Those elements at VAREC which do not provide direct patient services include the Research Service, the Technology and Performance Evaluation Service (TAPES), the Information and Education Service, the Orthopedic Shoe Service, and the Office of the Director.

These programs will remain at 252 Seventh Avenue but be reorganized as the "VA Prosthetic Technology and Information Center" under the responsibility of the Director, Prosthetic and Sensory Aids Service, VA Central Office. The Prosthetic Technology and Information Center will consist of: Office of the Chief and supporting staff (17 employees); the Technology and Product Evaluation Service (16 employees); the Testing and Standards Service (10 employees); the Footwear Service (34 employees); and the Technical Information Service (16 employees).

The Development Section and the Model Making Lab (tool and die shop) of the Research Service of VAREC have been internally reassigned to Testing and Standards Service in support of their mission. The six TAPES positions detailed to the VA Medical Center, Castle Point, will be physically transferred back to 252 Seventh Avenue as part of the Technology and Product Evaluation Service. (These six positions are included in the above totals.)

The 1984 assigned recurring FTE at VAREC is 139 and the assigned recurring dollars are $9,521,577. The planned changes will result in the following redistribution:

Thirty-eight FTE and funds to support those FTE will be transferred to VA Medical Center, New York; 8 FTE and funds to support those FTE will be reassigned to other nearby VA medical centers as detailed above in paragraph six; 93 FTE and appropriate funds to support the VA Prosthetic Technology and Information Center will be assigned to the Director, Prosthetic and Sensory Aids Service, VA Central Office. The allocation of these funds for individual missions of evaluation, development, testing and information dissemination, as well as continuing the orthopedic shoe service, will be formulated and planned by the Department of Medicine and Surgery in Central Office.

The Office of Personnel Management has concluded that many positions at VAREC are overgraded and that a significant number of downgrades must take place. They have agreed, however, to defer any action until the VA had completed the recommended reorganization. The new organizational and functional charts for the elements moving to VA Medical Center, New York, and the elements being changed to the Prosthetic Technology and Information Center involve basically the same individuals who are already on duty at VAREC. Consequently, there will be a need for only two positions to be eliminated.

Once the Prosthetic Technology and Information Center is established, VA personnel will perform desk audits of each position. Any downgrades initiated by the VA would be based upon these desk audits. The Office of Personnel Management will want to review the VA's actions and take any further action they feel is necessary. Once final decisions are made on personnel changes and downgrades, the appropriate congressional committees will be informed.

The space for the Prosthetic Technology and Information Center at Seventh Avenue will be evaluated by our Construction Office and GSA. A new floor plan will be drawn up after an analysis has been conducted so as to consolidate the Service into the most effective space usage.

The goal of this plan is to continue to make available the direct services to veterans that VAREC has provided. In addition, the reorganization will improve The Department of Medicine and Surgery's efforts to more rapidly meet the challenge of new technology in Prosthetic and Sensory Aids.

Sincerely,

DONALD L. CUSTIS, M.D.,
Chief Medical Director.

Mr. CRANSTON. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I join with the chairman of the Veterans' Affairs Committee (Mr. SIMPSON) in urging our colleagues to support our noncontroversial amendment that would authorize the VA to proceed with an administrative reorganization of the VA's Rehabilitation Engineering Center (VAREC) in New York City prior to October 1, 1983. This proposed reorganization is the final action in an extended VA review of the mission and effectiveness of the VAREC and will carry out the recommendation of a VA task force appointed by the VA's Chief Medical Director. However, under a provision of current law applicable specifically to the VA—section 210(b)(2) of title 38, United States Code—the VA is generally prohibited from reducing its staff at any of its offices by more than 10 percent in any fiscal year without advance notice to the Committee on Veterans' Affairs approximately 8 months prior to the beginning of that fiscal year. The Administrator provided such advance notice on January 11, 1983. Thus, because the implementation of the reorganization would involve reducing the staff level at VAREC beyond the degree specified in the law, the VA would not be able to carry out the reorganization until October 1, 1983, the start of fiscal year 1984. The amendment we are proposing would, in effect, upon enactment waive the application of the limitation on reductions of VA personnel at any particular covered facility to the personnel transfers involved in this reorganization, thereby allowing the VA to proceed in a more timely fashion.

Mr. President, I know of no opposition to the overall proposed reorganization. There have been concerns expressed within the veterans' community about some aspects of the reorganization as it affects the VAREC special clinic team. The two principal issues relate to the special clinic team—specifically, the need to provide sufficient space for the team at the Manhattan Veterans' Administration Medical Center prior to the team's being moved and the fulfillment of a previous commitment from officials at VA central office to establish and train within 1 year five additional special clinic teams, similar to the one being transferred from the VAREC, so as to establish such a team in each of the six VA regions, thereby creating a national network of such teams. It is my understanding that these two issues have been sympathetically addressed by appropriate officials in VA central office and that those who have raised the concerns have been reassured. Nevertheless, it is my intention—lest there be any misunderstanding—to secure from the VA written assurances with respect to each of these concerns prior to enactment of this provision.

Mr. President, in light of the fact that the concerns seem to have been addressed at this point, my intention to seek written assurances and the fact

that the VA is ready to proceed with the planned reorganization, I believe the agency should be permitted by the Congress to do so before October 1. I, therefore, urge my colleagues to support the pending amendment that the distinguished committee chairman and I are proposing.

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

The amendment (No. 1407) was agreed to.

The PRESIDING OFFICER. 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, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. STEVENS. Mr. President, I now ask the Chair to lay before the Senate Calendar No. 236, H.R. 2355, the House companion bill.

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

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2355) to establish an emergency program of job training assistance for disabled veterans and veterans of the Vietnam era.

The Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I move to strike all after the enacting clause and insert the text of S. 1033, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 2355) was read the third time and passed.

The title was amended so as to read:

A bill to amend title 38, United States Code, to establish an emergency job training program for wartime veterans.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent to indefinitely postpone Calendar Order No. 200, S. 1033.

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

H.R. 2477 REFERRED TO THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. STEVENS. Mr. President, I ask unanimous consent that H.R. 2477, entitled the "Sipsey Wilderness Additions Act of 1983", be referred to the Committee on Agriculture, Nutrition, and Forestry.

Mr. BYRD. Mr. President, I am advised there is no objection on this side.

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

H.R. 9 REFERRED TO THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. STEVENS. Mr. President, I ask unanimous consent that H.R. 9, a bill to designate components of the National Wilderness Preservations System in the State of Florida, be referred to the Energy and Natural Resources Committee.

Mr. BYRD. Mr. President, I am advised there is no objection on this side.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, is there an order for convening tomorrow?

The PRESIDING OFFICER. The Senate is scheduled to convene at 9:30 a.m. tomorrow morning.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess in accordance with that previous order.

There being no objection, the Senate, at 7:37 p.m., recessed until Thursday, June 16, 1983, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 15, 1983:

ENVIRONMENTAL PROTECTION AGENCY

Howard M. Messner, of Maryland, to be an Assistant Administrator of the Environmental Protection Agency, vice John P. Horton, resigned.

FEDERAL ELECTION COMMISSION

Joan D. Aikens, of Pennsylvania, to be a Member of the Federal Election Commission for a term expiring April 30, 1989 (reappointment).

John Warren McGarry, of Massachusetts, to be a member of the Federal Election Commission for a term expiring April 30, 1989 (reappointment).