

GLC--  
AIDS ON FOIA  
Past votes and leanings on current  
proposition.

LLM

# Senators

Approved For Release 2005/06/09 : CIA-RDP75B00380R000700010039-6  
Dial "5" before number

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	Suite No.	Tele- phone		Suite No.	Tele- phone
Vice President Ford, Gerald R., Mich	2203	2424	F Huddleston, Walter D., Ky	3327	2542
Abourezk, James, S. Dak	1105	5842	Hughes, Harold E., Iowa	1327	3744
<u>FM</u> Aiken, George D., Vt	358	4242	Humphrey, Hubert H., Minn	232	3244
Allen, James B., Ala	6205	5744	Inouye, Daniel K., Hawaii	442	3934
<u>F</u> Baker, Howard H., Jr., Tenn	3311	4944	<u>M</u> Jackson, Henry M., Wash. <i>(Que)</i>	137	3441
<u>FM</u> Bartlett, Dewey, Okla	140	4721	Javits, Jacob K., N.Y.	326	6542
Bayh, Birch, Ind	363	5623	<u>F</u> Johnston, J. Bennett, Jr., La	432	5824
Beall, J. Glenn, Jr., Md	362	4524	Kennedy, Edward M., Mass	431	4543
<u>FM</u> Bellmon, Henry, Okla	4203	5754	<u>FM</u> Long, Russell B., La	217	4623
<u>F</u> Bennett, Wallace F., Utah	1121	5444	Magnuson, Warren G., Wash	127	2621
<u>F</u> Bentsen, Lloyd, Tex	240	5922	Mansfield, Mike, Mont	133	2644
<u>FM</u> Bible, Alan, Nev	145	3542	Mathias, Charles McC., Jr., Md	460	4654
Biden, Joseph R., Jr., Del	6317	5042	<u>FM</u> McClellan, John L., Ark	3241	2353
<u>F</u> Brock, Bill, Tenn	254	3344	<u>M</u> McClure, James A., Idaho	2106	2752
Brooke, Edward W., Mass	421	2742	<u>M</u> McGee, Gale W., Wyo	344	6441
<u>F</u> Buckley, James L., N.Y.	304	4451	McGovern, George, S. Dak	2313	2321
Burdick, Quentin N., N. Dak	451	2551	McIntyre, Thomas J., N.H.	125	2841
<u>FM</u> Byrd, Harry F., Jr., Va	417	4024	Metcalf, Lee, Mont	427	2651
<u>F</u> Byrd, Robert C., W. Va	105	3954	Metzenbaum, Howard M., Ohio	1203	3353
<u>FM</u> Cannon, Howard W., Nev	259	6244	Mondale, Walter F., Minn	443	5641
Case, Clifford P., N.J.	315	3224	Montoya, Joseph M., N. Mex	5229	5521
Chiles, Lawton, Fla	2107	5274	Moss, Frank E., Utah	3121	5251
Church, Frank, Idaho	245	6142	Muskie, Edmund S., Maine	115	5344
Clark, Dick, Iowa	404	3254	Nelson, Gaylord, Wis	221	5323
Cook, Marlow W., Ky	347	4343	<u>FM</u> Nunn, Sam, Ga	110	3521
<u>FM</u> Cotton, Norris, N.H.	4121	3324	Packwood, Bob, Oreg	6327	5244
Cranston, Alan, Calif	452	3553	<u>F</u> Pastore, John O., R.I.	3215	2921
<u>FM</u> Curtis, Carl T., Nebr	2213	4224	Pearson, James B., Kans	5313	4774
<u>F</u> Dole, Robert, Kans	2327	6521	Pell, Claiborne, R.I.	325	4642
Domenici, Pete V., N. Mex	1251	6621	Percy, Charles H., Ill	4321	2152
<u>F</u> Dominick, Peter H., Colo	4213	5852	Proxmire, William, Wis	5241	5653
Eagleton, Thomas F., Mo	6235	5721	<u>FM</u> Randolph, Jennings, W. Va	5121	6472
<u>FM</u> Eastland, James O., Miss	2241	5054	Ribicoff, Abraham, Conn	321	2823
<u>F</u> Ervin, Sam J., Jr., N.C.	337	3154	Roth, William V., Jr., Del	4327	2441
<u>F</u> Fannin, Paul J., Ariz	1313	4521	Schweiker, Richard S., Pa	6221	4254
<u>M</u> Fong, Hiram L., Hawaii	2121	6361	<u>FM</u> Scott, Hugh, Pa	260	6324
Fulbright, J. W., Ark	1215	4843	<u>FM</u> Scott, William L., Va	3109	2023
<u>FM</u> Goldwater, Barry, Ariz	440	2235	Sparkman, John, Ala	3203	4124
Gravel, Mike, Alaska	4107	6665	Stafford, Robert T., Vt	5215	5141
<u>F</u> Griffin, Robert P., Mich	353	6221	<u>FM</u> Stennis, John C., Miss	205	6253
<u>FM</u> Gurney, Edward J., Fla	5107	3041	Stevens, Ted, Alaska	411	3004
<u>FM</u> Hansen, Clifford P., Wyo	3229	3424	Stevenson, Adlai E., III, Ill	456	2854
Hart, Philip A., Mich	253	4822	Symington, Stuart, Mo	229	6154
Hartke, Vance, Ind	313	4814	<u>FM</u> Taft, Robert, Jr., Ohio	405	2315
Haskell, Floyd K., Colo	204	5941	<u>FM</u> Talmadge, Herman E., Ga	109	3643
Hatfield, Mark O., Oreg	463	3753	<u>FM</u> Thurmond, Strom, S.C.	4241	5972
Hathaway, William D., Maine	248	2523	<u>FM</u> Tower, John, Tex	142	2934
<u>FM</u> Helms, Jesse, N.C.	4104	6342	Tunney, John V., Calif	1415	3841
<u>F</u> Hollings, Ernest F., S.C.	437	6121	Weicker, Lowell P., Jr., Conn	342	4041
<u>FM</u> Inouye, Daniel K., Hawaii	209	6551	Williams, Harrison A., N.J.	352	4744
			<u>FM</u> Young, Milton E., N. Dak	5205	2043

*Handwritten:* Table

VOTING RECORDS

SENATE SUPPORT FOR VETO  
OF  
H. R. 12471

STAT

CIA

[Redacted Box]

Bardlett -  
Bellman -

4-8391

4-3135

4-5225

SUPPORTERS \*

BYRD, ROBERT  
EASTLAND  
LONG  
MC CLELLAN  
NUNN  
RANDOLPH  
STENNIS  
TALMADGE

COTTON  
CURTIS  
GRIFFIN  
HANSEN  
HELMS  
HRUSKA  
SCOTT, WILLIAM  
TOWER

Total

16

\* Voted against final passage of H. R. 12471.

N. B. Although Senator Allen voted against final passage,  
it is understood that he has committed his vote to override.

11/19 True -  
but said he'd  
take another  
look - have  
been pitch &  
fact sheet

LIKELY SUPPORTERS \*

BIBLE  
BYRD, HARRY  
CANNON

BARTLETT  
BELLMON  
GOLDWATER  
GURNEY  
SCOTT, HUGH  
YOUNG

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Total 9

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\* Voted for final passage, but against both Muskie and Hart amendments.

POSSIBLE SUPPORTERS

- A. Voted for final passage and for Hart amendment, but against Muskie amendment.

DOD  
CIA

JACKSON  
MC GEE

FONG  
MC CLURE  
TAFT

---

Total 5

- B. Voted for final passage and for Muskie amendment, but against Hart amendment.

DOD

BENTZEN  
HUDDLESTON  
JOHNSTON

BROCK  
DOLE  
DOMENICI

---

Total 6

- C. Not recorded as voting on Muskie amendment, Hart amendment or final passage.

FULBRIGHT  
HOLLINGS  
INOUE  
SPARKMAN

BENNETT  
BUCKLEY  
DOMINICK  
FANNIN  
THURMOND

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Total 9

May 30, 1974

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deed the sixth exemption in the Act presently involves just such a task);

If in any other way the Bureau's ability to conduct such investigations was threatened, there would be no disclosure.

Thus, my amendment more than adequately safeguards against any problem which might be raised for the Bureau. The point is that the "law enforcement" exemption has been broadly construed to include any investigation by a government agency of a federally funded or monitored activity. The courts only require that the investigation might result in some government "sanction" such as a cutoff of funds—and not necessarily a prosecution. The investigations of auto defects, harmful children's toys, or federally-assisted hospitals could all be hidden completely from public view, and from criticism of government inaction or favoritism, unless my amendment is adopted. This is the danger which the ABA proposal seeks to correct. These are rarely FBI investigations.

Beyond these legitimate concerns, the Bureau's letter presents arguments which reject the entire Freedom of Information Act and all efforts by the press and the public to find out what their government representatives are actually doing.

The Bureau objects that government employees would have to review files to determine whether disclosure would really be harmful, and that someone might sue if he disagrees with an agency's refusal.

But the fundamental premise of the Freedom of Information Act is precisely that the opportunity to seek information is essential to an informed electorate. It is also axiomatic that an official should not be the sole judge of what he must disclose about his own agency's activities.

Surely if the events of the last two years, collectively known as Watergate have taught us anything, they have underlined vividly the wisdom of these two assumptions.

Sincerely,

PHILIP A. HART.

The PRESIDING OFFICER. The question is on agreeing to the amendment. 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. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. BUCKLEY), and the Senator from Idaho (Mr. McCURTAIN) are necessarily absent.

I also announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. FANNIN), and the Senator from South Carolina (Mr. THURMOND) are absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced yeas 51, nays 33, as follows:

YEAS—51

Abourezk	Hatfield	Nelson
Alken	Hathaway	Packwood
Bayh	Humphrey	Pearson
Beall	Jackson	Percy
Biden	Javits	Proxmire
Brooke	Kennedy	Ribicoff
Burdick	Magnuson	Roth
Case	Mansfield	Schweiker
Chiles	Mathias	Stafford
Church	McGee	Stevens
Clark	McIntyre	Stevenson
Cook	Metcalfe	Symington
Cranston	Metzenbaum	Taft
Eagleton	Mondale	Tunney
Fong	Montoya	Weicker
Hart	Moss	Williams
Haskell	Muskie	Young

NAYS—33

Allen	Curtis	Johnston
Baker	Dole	Long
Bartlett	Domenici	McClellan
Bellmon	Eastland	Nunn
Bentsen	Ervin	Randolph
Bible	Goldwater	Scott, Hugh
Brook	Griffin	Scott,
Byrd	Gurney	William L.
Harry F., Jr.	Hansen	Stennis
Byrd, Robert C.	Helms	Talmadge
Cannon	Hruska	Tower
Cotton	Huddleston	

NOT VOTING—16

Bennett	Hartke	Pastore
Buckley	Hollings	Pell
Dominick	Hughes	Sparkman
Fannin	Inouye	Thurmond
Fulbright	McClure	
Gravel	McGovern	

So Mr. HART's amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President—  
The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I yield to the Senator from Pennsylvania without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HUGH SCOTT. Mr. President, I thank the Senator from Massachusetts.

The PRESIDING OFFICER. Will the Senator suspend? Who yields time?

Mr. KENNEDY. I yield 5 minutes to the Senator from Pennsylvania, or whatever time he needs.

#### PROGRAM

Mr. HUGH SCOTT. Mr. President, I rise to inquire of the distinguished majority leader what is the order of business for today and for the near future, expressing the hope that perhaps it may not be necessary to be in session tomorrow. The distinguished majority leader did not know I was going to say that.

Mr. MANSFIELD. That is correct, but we are going to be in tomorrow, I am happy to state to my friends the distinguished Republican leader.

Mr. HUGH SCOTT. I have discharged my duty to my colleagues.

Mr. MANSFIELD. It is anticipated that tonight, after the disposition of the pending business, we will take up the Big Thicket National Preserve, and I would hope that the two Texas Senators would be in attendance at that time.

Following that, we will take up the House message relating to the Productivity Commission tomorrow.

Following that, S. 3433, the national wilderness preservation system.

I must apologize to the distinguished dean of the Republicans, the senior Senator from Vermont (Mr. AIKEN), and to notify him that, after many months, finally, after the original bill was reported February 15, 1973, it is the intention to call up this collateral measure, Calendar 771, S. 3433, tomorrow. It takes me a long time to attend to my good friend and colleague, my breakfast companion for many years, but tomorrow is the day.

Mr. AIKEN. Mr. President, I will say that this bill has been worked over and worked over, and worked over for 15 months now. If it is to be worked over some more, there will not be any bill this session of Congress. It so happens that when you meet somebody's request and write it into the bill, someone will come up later, after someone gotten to him, and he will say, "We want that different."

As far as any differences between the West and the East are concerned, they have been resolved, and I am very appreciative of that. I think the bill should be passed now if we are going to make a start, setting out some 246,000 acres in the Eastern States, and a study of another 400,000 acres. The East does not have any of these areas and we think it is time we did.

As soon as we reach full agreement, somebody comes along with another proposal and it is delayed another month or two; and there is no more time for delay now.

Mr. MANSFIELD. Mr. President, may I say I was joking when I said I was yielding to pressure, because the Senator from Vermont understands that I am keeping a promise made before the Memorial Day recess that it would be taken up when we return.

Then, of course, conference reports and other bills on the calendar will be taken up, and it is anticipated that the defense authorization bill will be laid before the Senate tomorrow. Perhaps opening statements will be made, but no action will be undertaken until Monday next.

#### AUTHORIZATION FOR COMMITTEE ON FINANCE TO REPORT H.R. 8215 BY MIDNIGHT

Mr. MANSFIELD. Mr. President, I also ask unanimous consent at this time, with the consent of the Senate, that the Committee on Finance have until midnight to report H.R. 8215.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. This is a minor tariff bill to which has been appended an amendment having to do with the common fund. I understand that this bill has

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Fourth, and finally, it could set the stage for severe problems regarding the privacy of individuals.

Mr. President, in my view, nothing would be lost by deferring action on this amendment because the FBI is now operating under standards virtually similar to those contained in the amendment. It would be well to allow a suitable interval of experience to be accumulated under these regulations in order to ascertain the wisdom or lack thereof in putting these standards in statutory form.

Mr. President, the highly detrimental and far-reaching impact that these two amendments taken together pose is so grave and sweeping that it is my intention to address a letter to the President urging as strong as I can that he veto this measure if it passes in this form.

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

Mr. HRUSKA. Mr. President, I gladly yield to the distinguished Senator from Arkansas.

Mr. McCLELLAN. Mr. President, I wish to associate myself with the views expressed by the distinguished Senator from Nebraska. I fully intended to support the measure as it came to the floor of the Senate. However, in view of the amendments that have been agreed to today, which destroys the purpose of the bill, in my judgment, and violate the Nation's security on documents and records, I cannot support the measure. I shall now have to vote against the bill.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

The Freedom of Information Act was passed in 1966. This legislation we are considering today is really a response by Congress to the past experience we have found with the failure of Government agencies to respond to the public's legitimate interest in what had been taking place inside their walls. It is precisely the extreme and unreasonable secrecy of the past that this bill addresses, and I think the overwhelming support by the press and across the country for some legislative response to this secrecy can be answered by this bill.

I should say that the amendments that have been agreed to by a strong vote in the Senate today in no way infringe upon national security or upon the law enforcement agencies and their responsibilities in this country. I think this is the most important legislative action that can be taken to open up the Government to the American people, who require it, who demand it, who are begging and pleading for it.

I want to acknowledge the constructive and supportive efforts of Senator HRUSKA and his staff in developing this legislation for floor action. I am disappointed that he does not feel that he can support this bill as amended on the floor.

The bill provides ample protection for the legitimate interests of Government agencies. It also insures that they will be open and responsive to the American people.

I hope that the bill will be passed. I am ready to yield back the remainder of my time.

Mr. HRUSKA. Mr. President, may I ask of my colleagues if there are any requests for time? Apparently there are

none, so I yield back the remainder of my time.

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

The PRESIDING OFFICER. All time has been yielded back. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUE), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. McGOVERN), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), and the Senator from California (Mr. CRANSTON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. BUCKLEY), and the Senator from Idaho (Mr. McCLELLAN) are necessarily absent.

I also announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. FANNIN), the Senator from Arizona (Mr. GOLDWATER), and the Senator from South Carolina (Mr. THURMOND) are absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 64, nays 17, as follows:

**Final** [No. 221 Leg.]  
YEAS—64

Abourezk	Domenici	Montale
Alken	Eagleton	Moss
Baker	Ervin	Muskie
Bartlett	Fong	Nelson
Bayh	Gurney	Packwood
Beall	Hart	Pearson
Bellmon	Haskell	Percy
Bentsen	Hatfield	Proxmire
Bible	Hathaway	Ribicoff
Biden	Huddleston	Roth
Brock	Humphrey	Schweiker
Brooke	Jackson	Scott, Hugh
Burdick	Javits	Stafford
Byrd	Johnston	Stevens
Harry F. Jr.	Kennedy	Stevenson
Cannon	Magnuson	Symington
Case	Mansfield	Taft
Chiles	Mathias	Tunney
Church	McGee	Welcker
Clark	McIntyre	Williams
Cook	Metcalf	Young
Dole	Metzenbaum	

NAYS—17

Allen	Hansen	Randolph
Byrd, Robert C.	Helms	Scott
Cotton	HRUSKA	William I.
Curtis	Long	Stennis
Eastland	McClellan	Talmadge
Griffin	Nunn	Tower

NOT VOTING—19

Bennett	Gravel	Montoya
Buckley	Hartke	Pastore
Cranston	Hollings	Pell
Dominick	Hughes	Sparkman
Fannin	Inouye	Thurmond
Fulbright	McClure	
Goldwater	McGovern	

So the bill (H.R. 12471) was passed. Mr. KENNEDY. Mr. President, I move that the vote by which the bill was passed be reconsidered.

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

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I move that S. 2543 be indefinitely postponed. The motion was agreed to.

# HEALTH SERVICES RESEARCH, HEALTH STATISTICS, AND MEDICAL LIBRARIES ACT OF 1974

Mr. KENNEDY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 11385.

The PRESIDING OFFICER (Mr. NUNN) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 11385) to amend the Public Health Service Act to revise the programs of health services research and to extend the program of assistance for medical libraries, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. KENNEDY. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. KENNEDY, Mr. WILLIAMS, Mr. NELSON, Mr. EAGLETON, Mr. CRANSTON, Mr. HUGHES, Mr. PELL, Mr. MONDALE, Mr. HATHAWAY, Mr. SCHWEIKER, Mr. JAVITS, Mr. DOMINICK, Mr. BEALL, Mr. TAFT, Mr. SPAFFORD conferees on the part of the Senate.

# ENERGY TRANSPORTATION SECURITY OR INSECURITY—AT WHAT COST?

Mr. COTTON. Mr. President, I ask unanimous consent to insert in the Record a statement which I made today before the Subcommittee on Merchant Marine of our Committee on Commerce, opposing the bills, H.R. 8193 and S. 2089.

The bill, H.R. 8193, carries the short title, "The Energy Transportation Security Act of 1974," and would require an increasing percentage of imported petroleum and petroleum products to be transported on higher-costing U.S.-flag tanker vessels.

If enacted, this legislation could have a profound, and probably adverse, effect upon the cost of meeting our current, pressing energy resource needs. I seriously question whether, as reflected in the short title "The Energy Transporta-

Means voted for vs. Muskie



Mr. KENNEDY. Are there a sufficient number of Senators present to order the yeas and the nays?

The PRESIDING OFFICER. There is not a sufficient second.

Mr. HRUSKA. Mr. President, I have no further requests for time on this side or in opposition to the amendment.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum, with the time to be charged to my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The yeas and nays were ordered.

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

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. BUCKLEY), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. FANNIN), and the Senator from South Carolina (Mr. THURMOND) are absent on official business.

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from South Carolina (Mr. THURMOND).

If present and voting, the Senator from Illinois would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 56, nays 29, as follows:

(No. 219 Leg.)  
YEAS—56

Abourezk	Eagleton	Moss
Alken	Ervin	Muskie
Baker	Hart	Nelson
Bayh	Haskell	Packwood
Beall	Hatfield	Pastore
Bentsen	Hathaway	Pearson
Biden	Ruddleston	Proxmire
Brock	Humphrey	Randolph
Brooke	Javits	Ribicoff
Burdick	Johnston	Roth
Byrd, Robert C.	Kennedy	Schweiker
Case	Magnuson	Stafford
Chiles	Mansfield	Stevens
Church	Mathias	Stevenson
Clark	McIntyre	Symington
Cook	Metcalf	Tunney
Cranston	Metzenbaum	Wicker
Dole	Mondale	Williams
Domenici	Montoya	

NAYS—29

Allen	Goldwater	Nunn
Simon	Graham	Scott
Bible	Gurney	William L.
Byrd	Hansen	Stennis
Harry F., Jr.	Helms	Tart
Cannon	Hruska	Talmadge
Cotton	Jackson	Tower
Curtis	Long	Young
Eastland	McClallan	
Fong	McClure	
	McGee	

NOT VOTING—15

Bennett	Gravel	McGovern
Buckley	Hartke	Pell
Dominick	Hollings	Percy
Fannin	Hughes	Sparkman
Fulbright	Inouye	Thurmond

So Mr. MUSKIE's amendment (No. 1356) was agreed to.

Mr. MUSKIE. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

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

The motion to lay on the table was agreed to.

Mr. BAYH. Mr. President, I send my amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. HELMS). The amendment will be stated.

The legislative clerk read as follows:

On page 9, line 9, following the word "person" insert the following:

"When such records are made available under this section in matters which the person seeking those records can demonstrate to be of general public concern, the agency complying with the request for the records shall make them available for public inspection and purchase in accordance with the provisions of this act, unless the agency can demonstrate that such records could subsequently be denied to another individual under the exceptions provided for in subsection (b) of this act."

Mr. BAYH. Mr. President, this amendment is designed to make certain Federal departments and agencies comply with both the letter and the spirit of the Freedom of Information Act in making public requested documents in matters of general public concern.

It is not consistent with the intent of Congress for an agency to comply with a request for a certain document under the Freedom of Information Act, but, at the same time, to refuse to make that document available to the public despite the legitimate and broad public nature of the document in question.

Yet, this is precisely what happened in a Freedom of Information Act request which I made earlier this year to the Federal Trade Commission. Probably the best way to demonstrate the real need for adoption of the amendment I have offered would be for me to recount my experience in seeking information from the FTC.

On March 20 a public interest law firm—the Institute for Public Interest Representation at the Georgetown University Law Center—wrote to the Federal Trade Commission on my behalf requesting a copy of a transcript of prehearing conference the Commission had conducted on December 18, 1973 with eight major oil companies which the FTC has charged with engaging in anticompetitive practices.

That request was based on the Free-

dom of Information Act. Subsequently, on April 3, having received no substantive reply to the letter my attorney had sent 2 weeks earlier, I filed suit in U.S. District Court here in Washington against the FTC to secure a copy of the requested transcript.

While I did not take lightly the significance of a U.S. Senator suing an agency of the Federal Government, I felt the issue was of such importance that this strong action was required. In seeking access to the transcript, I must emphasize, I did not merely want to secure this material for myself.

Certainly the Senator from Indiana did feel it would be helpful to him in weighing current energy-related legislation to have the information being generated in this very important proceeding before the Federal Trade Commission. But beyond the need which I felt I had for the document, I also felt that it was important that the transcript of a proceeding against the eight largest oil companies be available to the public.

Few issues have generated as much concern among the American people in recent months than the energy crisis. Much has been charged about the role of the oil companies in contributing to and exploiting the energy crisis, and the FTC allegations of major anticompetitive practices against the oil companies go directly to the heart of the public concern regarding the role of the oil companies.

It, therefore, seemed to me important that not only should the transcript in question be available to the Senator from Indiana, but that transcript should be part of the public record of the FTC, available for examination and purchase by the media and individual citizens.

However, when, on April 30, the FTC agreed to my request for the December 18, 1973 transcript, it did so on a very limited basis. Specifically, the Commission provided copies of the transcript to me and to three State attorneys general who had requested it. The Commission did not add the transcript to the public docket in its case against the oil companies, and when newsmen requested a copy of the transcript they were told they would have to make individual requests for copies under the Freedom of Information Act.

This limited release of the transcript was especially incongruous since I was not under any constraint in what I could do with the copy delivered to me. Accordingly, to save those newsmen the time and trouble of bringing individual Freedom of Information Act cases against the FTC, I provided access to the transcript to anyone who wanted to come to my office and examine it.

It is evident, Mr. President, that in its limited response to my request the FTC had complied with the letter of the Freedom of Information Act. But it is equally evident that in refusing to add the requested transcript to the public docket in its case against the oil companies that the FTC had not complied with the spirit of the act.

This amendment is designed to avoid such evasion of the true purpose of the act.

I must note, Mr. President, that the amendment is written in such a way so

D R A F T

Dear \_\_\_\_\_:

It is anticipated that a resolution of disapproval of the President's veto of H.R. 12471, a bill amending the Freedom of Information, will be scheduled for consideration this week.

We are enlisting your support on two fronts. First, we urge you to vote to uphold the President's veto of H.R. 12471. Second, we ask for your support of a new Freedom of Information bill that retains the favorable features of H.R. 12471 and also incorporates the amendments proposed by the President. These two votes will ensure that we pass legislation that encompasses, balances and protects all of the rights of the individual and the needs of our government.

In enlisting your support, we wish to make it clear that a vote in support of the President's veto does not, in any way, reflect a rejection of a commitment to the ideals of the Freedom of Information Act. Indeed, it is our conviction that the citizen should be granted the fullest access to the records of Federal agencies that the right of privacy and effective government will permit.

It is our concern, however, that the fundamental rights of privacy and personal security and the interest of us all in maintaining military, intelligence and diplomatic secrets in confidence could be adversely affected if this bill were to be approved over the President's veto.

We do not believe that a court should be granted the authority to disclose a classified document where there is a reasonable basis for

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the classification, as H.R. 12471 presently provides. Only if the judge should find that there is no reasonable basis for the classification, should he be authorized to disclose the document.

We are also concerned that the confidentiality of many millions of pages of FBI and other investigatory law enforcement files could be jeopardized if the agency would be compelled to disclose documents at the request of any person unless it could prove that disclosure "would" cause a type of harm specified in the amendment. It is extremely difficult, if not impossible, to determine that the release of a paragraph or a line in a document "would" invade a person's right to privacy or "would" impair an investigation.

A vote in support of the veto will ensure that these objectionable features of the bill will not become law. In turn, a vote in support of an amended bill will fulfill the commitment of us all to the disclosure of the greatest amount of information consistent with the right of privacy, our nation's foreign policy and defense and, in general, good government.

Sincerely,