OLL 84-0287
26 January 1984

MEMORANDUM FOR: Director, Office of Legislative Liaison
Deputy Director, Office of Legislative Liaison
Deputy Director of Personnel for Special Programs
Chief, Administrative Law Division, OGC

FROM: [redacted] STAT
Legislation Division
Office of Legislative Liaison

SUBJECT: Recession of Congressional Pay Raise

101

1. Attached for your information are S. 2202, S. 2206 and S. 2211, bills recently introduced to rescind the 3.5 percent pay raise for members of Congress. These bills would not rescind the 15 percent pay raise that Congress gave themselves in July 1983. Similar legislation, H.R. 4594, H.R. 4600 and H.R. 4603, has been introduced in the House.

2. Each of these Senate bills would return a Congressman's salary to its 31 December 1983 level of $69,800. These bills do not affect the recent 3.5 percent pay increase for the General Schedule (GS), Senior Executive Service (SES), and the Executive Schedules. Neither will these bills affect the "pay caps" for GS or SES pay which are tied to Level V ($66,000) and IV ($69,600), respectively, of the Executive Schedule and not to Congressional pay. Additionally, these bills retain the 3.5 percent pay raise for Congressional officers and employees whose pay rate is linked to the members pay.

3. I will continue to monitor and report on this legislation as appropriate.

[redacted] STAT

Attachment

cc: [redacted] Liaison STAT

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Bureau of Land Management land. According to Apache County officials, the purchase of the private lands would amount to an approximate $161 property tax loss, and the public lands' transfer would incur a payments-in-lieu loss to the county of about $2,500, or less than 1 percent of the county's total payments-in-lieu moneys.

If the legislation were implemented, the tribe would allow continued present surface use of the area, which is basically grazing by one of the private landowners. The Zunis' purpose in acquiring this area is to protect and preserve Zuni Heaven, which is the heart of their religion and their origins on Earth.●

By Mr. BAKER (for Mr. JEPSEN):

S. 2202. A bill to reduce the rates of pay of Members of Congress by the amount of the increase taking effect on January 1, 1984, and for other purposes; to the Committee on Government Affairs.

REDUCING RATES OF PAY OF MEMBERS OF CONGRESS

● Mr. JEPSEN. Mr. President, I send a bill to the desk and I ask that it be appropriately referred to the committee of jurisdiction.

Mr. President, the bill I have just introduced would repeal the 3.5-percent pay raise received by Members of Congress on January 1 of this year.

While some may argue that this pay raise is justified, I would point out that it was less than 1 year ago that Congress approved its last pay raise.

In addition, at a time when people are clamoring to castigate the size of the Federal deficit, it would be the height of hypocrisy for Congress to accept this raise. Indeed, we in Congress must show leadership and reject this pay raise.

Lest my colleagues get the idea that this is just another bill that will languish in the committee, rest assured that I intend to offer this legislation as an amendment to the first appropriate bill that comes before the Senate for debate and vote.

In addition, I have been assured by our distinguished majority leader, Senator BAKER, that this issue will receive priority consideration.

Not only is this pay raise unwarranted, but I strongly object to the manner in which it occurred.

Once again, instead of having the courage to vote up or down on this pay raise, Congress took the easy way out and allowed the raise to go through without even so much as a whimper of debate.

Rest assured, millions of Americans are watching what Congress does on this issue.

We can stand here and make all of the eloquent speeches about how terrible it is that we have $200 billion deficits.

We can stand here and say how we think the budget can be balanced.

We can stand here and debate the merits of tax increases versus budget cuts.

But the bottom line is not how well we speak. It is not whether we score points in the debate.

Rather, it is in how we vote. Are we willing to exercise the restraint that will be necessary to control Government spending.

I am prepared, Mr. President, to stand and be counted as one Senator who says, enough is enough.

While President Harry Truman was right that the buck does often stop at the desk of the President, this is one issue where Congress has the opportunity to assert its conscience and state emphatically, the buck stops here.

Mr. President, I ask unanimous consent that a copy of this bill appear in the RECORD at this point.

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

S. 2202

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) on and after the date of enactment of this Act, the rate of pay for an office or position referred to in section 601 (a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) shall be the same as the rate of pay payable for such office or position on December 31, 1983.

(b) For the purposes of any rule, regulation, or order having the force and effect of law and limiting the annual rates of compensation of officers and employees of the Congress by reference to the annual rate of pay of any Member of the Congress, the annual rate of pay of such Member shall be deemed to be the annual rate of pay that would be payable to such Member without regard to subsection (a).●

By Mr. SPECTER:

S. 2203. A bill to repeal section 2392 of title 10, United States Code, relating to the prohibition on the use of Department of Defense funds to relieve economic dislocations, and for other purposes; to the Committee on Armed Services.

REPEAL OF MAYBANK AMENDMENT

Mr. SPECTER. Mr. President, today I am introducing legislation that repeals the Maybank amendment to require the Secretary of Defense to target defense programs to areas of high unemployment.

Mr. President, on Friday, I had occasion to visit a small company in Pittsburgh, Pa., a company which is illustrative of the opportunities for small business in governmental procurement being given an opportunity to bid.

Detroit Gear employs some 43 individuals and has some $3 million in gross sales annually, 60 percent of which goes to the Navy. It is a model form of business, employing white males, white females, black females, and representation by minorities. It is a very prosperous and an excellent small business operation.

It is my thought that if a real effort were made by the Department of Defense to find businesses around the country in areas of high unemployment, such as Pittsburgh, Pa., and such as many parts of my State of Pennsylvania, that the Department of Defense expenditures could have a dual benefit. That is, to prepare the United States in a defense context and also deal with the very serious problems of unemployment in labor surplus areas.

The Maybank amendment is a classic example of outmoded Federal Government policy which exacerbates economic dislocations. When initially passed in the 1950's, the Nation was experiencing an outburst of economic activity and the unemployment rate was in the range of 2 to 3 percent. Further, the Nation only had a total of 26 LSA's spread among 12 States. Today, there are 1,435 LSA's in 45 States plus the District of Columbia and Puerto Rico. At that time, it may have made sense to prohibit the Department of Defense from initiating programs to relieve economic dislocations, but that policy hardly makes sense today when unemployment is in excess of 10 percent in many States and in excess of 15 percent in many localities. In my State of Pennsylvania, the average total unemployment rate for 1983 is estimated to be 11.8 percent versus a national average of 9.7 percent.

As the Nation's largest employer, the Department of Defense has a substantial influence over the shape and health of regional economies through the sheer size of the defense budget. Since passage of the Maybank amendment, distribution of Defense Department funds has increasingly favored areas of high economic growth, while penalizing those areas experiencing high rates of unemployment. For example, the Northeast-Midwest region's share of military prime contract dollars decreased from 71.8 percent in 1951 to 38.7 percent in 1981, according to the Northeast-Midwest Institute. In addition, the Defense Department estimates that by 1990, over 50 percent of DOD's prime contracts will go to contractors located in only three States.

In order to remedy the inequities created by the Maybank amendment, the Congress initiated a test program in fiscal year 1981 exempting certain contracting by the Defense Logistics Agency from the provisions of the Maybank amendment. The test originally set aside $12 billion in defense contracts over the 3-year period, fiscal years 1981-83, but the Defense Department only awarded $0.5 billion in fiscal year 1981, $2.2 billion in fiscal year 1982, and $2.8 billion in fiscal year 1983 under this program. Clearly, the Defense Department has failed to meet its mandate for this program even though the price differential was dropped from 5 percent to 2.2 percent in 1983. This failure has exacerbated the serious economic dislocations experienced in many areas throughout the country.

The legislation I am introducing today would repeal the Maybank amendment. In lieu thereof, it would

that they are part of a conspiracy. This bill does not in any way limit law enforcement officers from using body recorders, or even recording telephone conversations without telling the other party, if they are doing it under color of law as a law enforcement officer.

My bill will only control people like Mr. Wick or anyone else who is not acting in a law enforcement capacity. I do not believe very many people in this Nation engage in this kind of privacy invading activity. I do not know, but I will say this, Mr. President, I have been terribly exercised about this revelation concerning Mr. Wick. I do not believe we enjoy a single freedom more precious than the right to be secure in our homes and the right against our privacy being invaded. How can you invade someone's privacy more than by surreptitiously recording a telephone conversation in which you may try to lead the person into making certain statements? It may then be used for political purposes. It may be used for a whole host of purposes, but all of them constitute an invasion of privacy.

When I call the radio station in my home State, they say, "Senator, just a minute. Let me get a tape rolling." I know I am being recorded. And I must say there are 100 Senators who are very circumspect about what they say when they call a radio station and know they are being recorded.

I have heard that the writing press on occasion tape-records a conversation without telling the person that they are recording it. Frankly, I have some doubts about that. On occasion I have had a member of the writing press say to me, "Senator, do you mind if I record this?" And I say, "Absolutely not; be my guest."

That is just like a reporter from the Wall Street Journal coming into my office yesterday afternoon and saying, "Senator, do you mind if I use this recorder?" "Not at all."

But if he came into my office and was not a law enforcement officer, and I found out later that he had a recorder taped to his body and was recording everything I said, I would be terribly agitated just as he would if the situation were reversed.

Mr. President, I consider this a very serious matter. I sincerely hope that we will immediately have over 50 cosponsors to this bill, and that the Judiciary Committee will expedite hearings on the bill immediately.

Even though I have heard it said that little is going to happen during this session—maybe it is not—but this should be one of the things that happens, that this bill passes.

Mr. President, let me just read one final thing, because I think this says it better than I could say it.

Olin Robison, president of Middelburg College—

Incidentally, that is an outstanding educational institution.

—has resigned from the United States Advisory Commission on Public Diplomacy to protest the surreptitious taping of telephone conversations by Charles L. Wick, director of the United States Information Agency.

The seven-member advisory body is charged with overseeing the operations of the U.S.I.A. It was founded in 1978 with Mr. Robison, a Democrat, and its first chairman.

In letters to President Reagan and to Mr. Wick, dated Monday, Mr. Robison acknowledged that his term on the commission was almost over but said he wanted to speak out as a citizen regarding Mr. Wick's taping of telephone conversations.

And here is what he said:

What is at issue is the unethical taping of conversations without the knowledge of some or many individuals, and, secondly, the public perception that when confronted with this fact, you failed to admit the extent or complete nature of this activity.

And here is part of a column by Richard Cohen.

Hark ye who think ye live in modern times, come see the political equivalent of medieval medicine in which the cure is worse than the disease. I am referring to that tempest in a tape deck, the Wick Affair, in which the director of the U.S. Information Agency secretly taped his own phone calls. He is accused of invasion of privacy. As a result, his and lots of other people's privacy has been invaded.

At the moment, for instance, 91 transcripts of Charles Z. Wick's tapes are sitting in the offices of the Senate Foreign Relations Committee and the House Foreign Affairs Committee. In addition, both committees have stenographic notes of 83 other conversations. The transcripts and notes are being read by seven staff aides, two in the Senate and five in the House, and will be made available to members of both committees—a total of 52 lawmakers.

Should you believe that the contents of these tapes (especially the more interesting ones) will not surface in the press, I have a bridge in Brooklyn to sell you. Even before Congress got into the act, partial transcripts were printed in the press. And now the House committee, indicating that the only thing more sacred than privacy is publicity, has urged Wick to publish it all—after, of course, getting the permission of those he taped.

Some may think Wick has it coming to him. His actions were certainly sneaky, probably unethical, maybe even illegal. But the man has (reluctantly) acknowledged his foul deed. The tapes are a redundancy. They prove only what Wick already has admitted: he violated the privacy of many people. Now others will do it wholesale.

Mr. President, there is another provision in the Constitution of the United States applicable here, and I am absolutely amazed when I think about how farsighted our Founding Fathers were when they included the provision that says there shall be no laws passed ex post facto. If we could pass laws to make conduct a crime that has already occurred, everyone would want to pass a law to send Mr. Wick to the penitentiary.

Mr. Wick is no longer relevant. We owe him a debt of gratitude for highlighting a terrible void in the criminal laws of this country, and I am seeking to rectify it. I urge the prompt passage of this measure.

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. 2205

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection 2(d) of § 2511 of Title 18 United States Code is amended by deleting the following words: "where such person is a party to the communication or where one of the parties to the communication has given prior consent", and inserting in lieu thereof: "where all parties to the communication have given prior consent".

By Mr. KASTEN:

S. 2206. A bill to reduce the rates of pay of Members of Congress by the amount of the increase taking effect on January 1, 1984; to require a recorded vote on each legislative measure providing for an increase in such rates of pay, and for other purposes; to the Committee on Governmental Affairs.

ROLLBACK OF CONGRESSIONAL PAY INCREASE

Mr. KASTEN. Mr. President, today I am introducing legislation to rollback the most recent congressional pay increase. At a time when $200 billion deficits threaten our economy, it is just plain wrong for Members of Congress to give themselves another pay increase. Fiscal restraint should begin here at home.

The legislation I am introducing today does two things. First, it eliminates the most recent pay increase, which went into effect on January 1. Second, it requires that a recorded vote be taken on any future measure leading to a pay increase for Members of Congress.

On January 1, Members of Congress received a raise of $2,400. This increase was on top of a $9,137.50 pay increase that the Senate gave itself July 1. These two raises mean increased salaries for Members of the Senate of over $11,500 in the past 6 months alone.

Many Americans live on an income that is far less than that. As the elected representatives of the people, we cannot in good faith ask our constituents to help reduce Federal spending when we give ourselves this special treatment. Instead, elected representatives should set an example of restraint.

The second component of my bill requires that a recorded vote be taken on any future congressional pay increase. We should also have the courage to go on record when we do raise our own salaries. This would eliminate any automatic or back door raises Congress has created for itself.

I hope that many of my colleagues will join me in this effort to review the policies governing congressional pay increases and to eliminate the second raise we gave ourselves on January 1.

TENBERG, Mr. MELCHER, Mr. HOLLINGS, Mr. HATFIELD, and Mr. BOSCHWITZ):

S. 2201. A bill to amend part D of title IV of the Social Security Act to assure, through mandatory income withholding, incentive payments to States, and other improvements in the child support enforcement program, that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance regardless of their circumstances, and for other purposes; to the Committee on Finance.

By Mr. HATFIELD:

S. 2208. A bill for the relief of Spalding and Sons, Inc.; to the Committee on the Judiciary.

By Mr. PERCY (by request):

S. 2209. A bill to authorize a system of approval and permitting by the U.S. Commissioner of the International Boundary and Water Commission for construction in the limitrophe sections of the Rio Grande and the Colorado River, and for other purposes; to the Committee on Foreign Relations.

By Mr. SIMPSON:

S. 2210. A bill to revise and clarify the eligibility of certain disabled veterans for automobile adaptive equipment; to the Committee on Veterans Affairs.

By Mr. BAKER (for Mr. NICKLES) (for himself, Mr. BAKER, Mr. JEPSEN, Mrs. KASSEBAUM, Mr. KASTEN, Mr. DECONCINI, Mr. BOREN, and Mr. BURDICK):

S. 2211. A bill to reduce the rates of pay of Members of Congress by the amount of the increase taking effect on january 1, 1984, and for other purposes, placed on the calendar.

By Mr. BURDICK:

S.J. Res. 211. Joint resolution designating the week of November 18, 1984, through November 24, 1984, as "National Family Week"; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. HATCH, and Mr. GRASSLEY):

S.J. Res. 212. Joint resolution proposing an amendment to the Constitution of the United States relating to voluntary silent prayer or meditation; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. STEVENS:

S. Res. 308. Resolution expressing the sense of the Senate that the Federal Communications Commission should take further steps to safeguard universal telephone service in the wake of the American Telephone and Telegraph Co. divestiture; to the Committee on Commerce, Science, and Transportation.

By Mr. BAUCUS:

S. Con. Res. 87. Concurrent resolution relating to the dismantling of nontariff trade barriers of the Japanese to the import of beef; to the Committee on Finance.

By Mr. CHILES (for himself, Mr. NUNN, Mr. THURMOND, Mrs. HAWKINS, Mr. SYMMS, Mr. BOREN, Mr. MOYNIHAN, Mr. SIMPSON, Mr. DECONCINI, Mr. DENTON, and Mr. BOSCHWITZ):

S. Con. Res. 88. Concurrent resolution expressing the sense of the Congress that the Secretary of State should request the Organization of American States to consider as soon as possible the question of the involvement by the Government of Cuba in drug dealing, smuggling, and trafficking in the Western Hemisphere; to the Committee on Foreign Relations.

By Mr. CHILES (for himself, Mr. NUNN, Mr. THURMOND, Mrs. HAWKINS, Mr. SYMMS, Mr. BOREN, Mr. MOYNIHAN, Mr. SIMPSON, Mr. DECONCINI, Mr. DENTON, and Mr. BOSCHWITZ):

S. Con. Res. 89. Concurrent resolution urging the President to direct the Permanent Representative of the United States to the United Nations to bring before the United Nations the question of the involvement by the Government of Cuba in drug dealing, smuggling, and trafficking; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BUMPERS (for himself, Mr. RUDMAN, Mr. RANDOLPH, Mr. RIEGLE, Mr. HUDDLESTON, and Mr. MELCHER):

S. 2205. A bill to amend section 2511 of title 18, United States Code; to the Committee on the Judiciary.

TAPING OF CONVERSATIONS

Mr. BUMPERS. Mr. President, this morning I am introducing a bill directly as a result of the U.S. Information Agency Director Mr. Wick's recording telephone conversations with everybody who called him, without telling the parties that he was talking to that they were being recorded.

My guess is that most people in this country probably assumed that such conduct was at a minimum a misdemeanor. But it is not only not a misdemeanor, it is not anything except a violation of Federal regulations.

According to some of the press clippings, incidentally, Mr. Wick was warned by various persons that he was in violation of Federal regulations by recording telephone conversations. And yet he persisted. As another Senator, I believe yesterday, said so ably on this floor, if Mr. Wick did not know it was wrong or at least if he did not think it was unethical, there was absolutely no reason for him to lie when he was first asked, "Have you been recording conversations," and he said, "No."

Later on he was asked again and he said yes, he did, in fact, record two or three conversations. And then on the third inquiry he said, "Yes, I have been recording everything."

One of the really interesting things about Mr. Wick's conduct—and I do not intend to dwell on him at length but I must say that he has done the Nation a favor by pointing up a vast chasm in our criminal laws—one of the things he did I really thought was interesting and astounding was to call somebody and record the conversation he had initiated. It is bad enough to record a conversation when you are called by someone else, but he called a former President, Jimmy Carter, and said, "Mr. President, what do you think about arms control?" and proceeded to record the conversation.

I daresay there is not a person in this body, there is not a person in Government, who would like to have his or her daily telephone conversations broadcast across the country.

There are 81 tapes that Mr. Wick recorded now reposed with the Senate Foreign Relations Committee. With all due respect to that committee or any other committee that deals with the situation, anyone who thinks that some of the more scintillating parts of those conversations are not going to be put into the national press is buying the Brooklyn Bridge.

I am sure that Jim Baker at the White House, President Carter, Ed Meese and whoever else was recorded, all those people are very apprehensive about those phone calls. I think the one with James Baker from the White House has already been largely revealed.

But, Mr. President, to get down to the substance of my bill and to describe the status of existing law on this kind of a situation, here it is: There is presently a criminal statute, 18 U.S.C. 2511, that makes it a crime to record telephone conversations without telling the other party or parties to the conservation, but there is an exception, and the exception is big enough to drive 10 wagons and teams through. The truth of the matter is that the exception says do not record unless you happen to have the urge.

Here is the law. Section 2511 of title 18, United States Code, says that anyone who:

> Wilfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept any wire or oral communication, et cetera, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both.

But listen to this exception at subsection (2)(d):

> It shall not be unlawful under this chapter for a person not acting under color of law to intercept a wire or oral communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception, unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution and laws of the United States or any State or for the purpose of committing any other injurious act.

That is the sorry sad state of laws on communication intercepts.

What my bill does, very simply, is to modify that exception by striking out "where such person is a party to the communication or where one of the parties to the communication has given prior consent" and inserting instead "where all parties to the communication have given prior consent."

In the future, then, it will be a violation of the criminal laws, it will be a felony subject to a $10,000 fine and 5 years in prison, if you record without telling the person on the other end that you are recording.

Now, maybe someone is thinking that law enforcement agencies use undercover agents; they put body recorders on persons who then go out and visit someone else and get them to admit that they have committed a crime, or that they are about to, or

I ask unanimous consent that the complete text of my bill be printed in the RECORD at this point.

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

S. 2206

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 "Members of Congress Pay Reform Act of 1984".

SEC. 2. (a)(1) Paragraph (1) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is amended—

(A) by striking out the paragraph designation; and

(B) by redesignating clauses (A), (B), and (C) as clauses (1), (2), and (3), respectively.

(2) Paragraph (2) of section 601(a) of such Act is repealed.

(b) The rate of pay for an office or position referred to in section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) shall be the rate of pay payable for such office or position on December 31, 1983. Such rate of pay shall take effect on the date this Act is enacted as prescribed by law.

(c) For the purposes of any rule, regulation, or order having the force and effect of law and limiting the annual rates of compensation of officers and employees of the Congress by reference to the annual rate of pay of any Member of the Congress, the annual rate of pay of such Member shall be deemed to be the annual rate of pay that would be payable to such Member without regard to subsection (b) of this section.

SEC. 3. Section 225(i) of the Federal Salary Act of 1967 (2 U.S.C. 359) is amended to read as follows:

"(i) A recommendation of the President with respect to an office or positions described in subparagraphs (A), (B), (C), or (D) of subsection (f) of this section shall take effect only if enacted into law.".

SEC. 4. (a) Each House of the Congress shall conduct a separate vote on each provision which is included in a bill or joint resolution and, if enacted, would increase the rate of pay of any Member of the Congress for service as a Member of the Congress. Each such vote shall be recorded so as to reflect the vote of each Member of the Congress voting thereon.

(b) Subsection (a) is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such the provisions of such subsection shall be considered as part of the rules of each House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

By Mr. BRADLEY (for himself, Mr. DURENBERGER, Mr. GRASSLEY, Mr. PACKWOOD, Mr. MOYNIHAN, Mr. LAUTENBERG, Mr. MELCHER, Mr. HOLLINGS, Mr. HATFIELD, and Mr. BOSCHWITZ):

S. 2207. A bill to amend part D of title IV of the Social Security Act to assure, through mandatory income withholding, incentive payments to States, and other improvements in the child support enforcement program, that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance regardless of their circumstances, and for other purposes; to the Committee on Finance.

CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1984

Mr. BRADLEY. Mr. President, today I am introducing legislation to address the growing problem of parents who fail to make court-ordered child support payments.

When parents bring children into the world, they have a responsibility to care for that child. Too often, noncustodial parents do not fulfill that responsibility. It has become a national disgrace.

This legislation, which is cosponsored by Senators DURENBERGER, GRASSLEY, PACKWOOD, MOYNIHAN, LAUTENBERG, MELCHER, HOLLINGS, HATFIELD, and BOSCHWITZ, is a bipartisan effort to assure the payment of child support through mandatory income withholding, incentive payments to States, and other improvements in the child support enforcement program.

We cannot act soon enough. In the past years, the number of children living in single parent families has increased dramatically. In 1980 there were more than 8 million families with minor children headed by one parent. Both parents should be responsible for giving their children food, shelter, health care, and an education.

Too often, one parent is not doing his or her share to provide support. In 1978, about 7 million women were raising children under the age of 21 in a household where the children's fathers were not present. Fully 40 percent of those mothers received no child support awards. Of the 60 percent who were entitled to child support, 28 percent never got the money, and 23 percent consistently received less than the amount awarded by the court. This legislation is designed to confront the problem of child support enforcement and to begin solving it.

The bill mandates that States must enact laws requiring the use of specified procedures in the operation of their child support enforcement and paternity establishment programs. The major required procedures are as follows:

First, mandatory wage withholding if child support payments are delinquent in an amount equal to 1 month's support.

Second, new administrative procedures assure that States will make all reasonable efforts to improve the enforcement of child support obligations.

Third, the withholding of State tax refunds payable to a parent of an AFDC child, if the parent is delinquent in support payments.

Fourth, requiring individuals who have demonstrated a pattern of delinquent payments to post a bond, or give some other guarantee to secure payment of past-due support.

In addition, the bill replaces the present incentive formula which rewards States for collections made on behalf of AFDC families with a new formula which rewards States for collections made on behalf of both AFDC and non-AFDC families. The Federal incentive payment increases as the State's ratio of collections to administrative costs improves. Finally, the bill authorizes $15 million a year for demonstration grants to States to test methods of improving interstate collections.

In New Jersey some steps have been taken to improve the collections of child support. The State runs a solid, cost-efficient program. And we have an outstanding child support enforcement program in Essex County begun by County Executive Peter Shapiro more than 2 years ago. We need similar initiatives extended to every county and every State in this Nation.

The bill that Senator DURENBERGER and I are introducing today is identical to legislation championed by Representative MARGE ROUKEMA in the House. That legislation passed unanimously and I look forward to the same action in the Senate.

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. 2207

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

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Child Support Enforcement Amendments of 1984".

TABLE OF CONTENTS

PURPOSE OF THE PROGRAM

SEC. 2. Section 451 of the Social Security Act is amended by striking out "and obtaining child and spousal support," and inserting in lieu thereof "obtaining child and spousal support, and assuring that assistance in obtaining support will be available under this part to all children (whether or not eligible for aid under part A) for whom such assistance is requested,".

IMPROVED CHILD SUPPORT ENFORCEMENT THROUGH REQUIRED STATE LAWS AND PROCEDURES

SEC. 3. (a) Section 454 of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (18);

(2) by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (19) the following new paragraph:

"(20) provide that (subject to section 466(d)) the State (A) will have in effect all of the laws required by section 466, and (B) will implement the procedures (designed to improve child support enforcement effectiveness) which are embodied or prescribed in such laws.".

(b) Part D of title IV of such Act is further amended by adding at the end thereof the following new section:

"REQUIREMENT OF STATUTORILY PRESCRIBED PROCEDURES TO IMPROVE EFFECTIVENESS OF CHILD SUPPORT ENFORCEMENT

"SEC. 466. (a) In order to be in compliance with the provisions of section 454(20)(A) at any time, each State must have enacted (and have in effect at that time) laws establishing, embodying, or requiring the use of the following procedures, consistent with regulations of the Secretary, to increase the effectiveness of the program which the State administers under this part:

"(1) Procedures described in subsection (b) for the withholding from income of amounts payable as support.

"(2) Procedures assuring (in accordance with regulations of the Secretary) that the State will make all reasonable efforts to expedite and otherwise improve the establishment of, compliance with, and enforcement of, child support obligations and any related obligations arising under or in connection with the support orders involved.

"(3) Procedures under which, at the request of the State child support enforcement agency, for the purpose of enforcing a support order of that or any other jurisdiction—

"(A) any refund of State income tax which would otherwise be payable to an individual will be reduced, after notice to that individual of the proposed reduction and the procedures to be followed to contest it (and after full compliance with all procedural due process requirements of the State), by the amount of any past-due support (as defined in section 464(c)) owed by such individual, in every case where the support obligation involved has been assigned to the State pursuant to section 402(a)(26), and in any other case at the option of the State; and

"(B) the amount by which such refund is reduced will be retained by the State for distribution in accordance with section 457(b)(3), and notice of the individual's home address will be furnished to the State agency administering the plan approved under this part.

The Secretary may prescribe regulations specifying the minimum amount of a refund, and the minimum amount of past-due support, to which the procedures required by this paragraph may apply.

"(4) Procedures under which liens are imposed against real and personal property for amounts of past-due support (as so defined) owed by an absent parent who resides or owns property in the State.

"(5) Procedures which permit the establishment of an individual's paternity for any child at any time prior to such child's eighteenth birthday.

"(6) Procedures which require in appropriate cases that an individual give security, post a bond, or give some other guarantee to secure payment of past-due support (as so defined) if such individual is an absent parent who has a demonstrated pattern of overdue support payments, after notice to such individual of the proposed requirement and the procedures to be followed to contest it (and after full compliance with all procedural due process requirements of the State).

"(7) Procedures by which information regarding the amount of past-due support (as so defined) owed by an absent parent residing in the State will be made available to any consumer credit bureau organization (as defined in section 416 of Public Law 96-374) upon the request of such organization; except that (A) if the amount of the past-due support involved in any case is less than $1,000, information regarding such amount shall be made available only at the option of the State, (B) any information with respect to an absent parent shall be made available under such procedures only after such parent has been notified of the proposed action and given a reasonable opportunity to contest the accuracy of such information (and after full compliance with all procedural due process requirements of the State), and (C) a fee for furnishing such information, in an amount not exceeding the actual cost thereof, may be imposed on the requesting organization by the State.

"(8) Procedures under which child support payments under this part will be made through the State agency or other entity which administers the State's income withholding system (described in paragraph (1) and subsection (b)) in any case where either the absent parent or the custodial parent requests it, even though no arrearages in child support payments are involved and no income withholding procedures have been instituted; but in any such case an annual fee for handling and processing such payments, in an amount not exceeding the actual costs incurred by the State in connection therewith or $25, whichever is less, shall be imposed on the requesting parent by the State.".

"(b) Under the procedures referred to in subsection (a)(1) (relating to the withholding from income of amounts payable as support)—

"(1) in the case of each absent parent against whom a support order is or has been issued or modified in the State, so much of his or her wages must be withheld, in accordance with the succeeding provisions of this subsection, as is necessary to comply with the order and to provide for the payment of any fee to the employer which may be required under paragraph (6)(A) (except that the amounts withheld shall not exceed the amounts permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)), and the amounts to be withheld to satisfy arrearages may be appropriately limited by the State law);

"(2) such withholding must be initiated without the necessity of any application therefor in the case of a child (whether or not eligible for aid under part A) with respect to whom services are already being provided under this part, and will be initiated upon the filing of an application for services under this part with the State agency in the case of any other child in whose behalf a support order has been issued or modified in the State; and in either case such withholding must occur without the need for any amendment to the support order involved or for any further action by the court or other entity which issued it;

"(3) such withholding must be carried out in full compliance with all procedural due process requirements of the State and must begin as soon as is administratively feasible, in any event by the earliest of (A) the date on which such procedures become effective, the date on which such order becomes effective, the date on which the payments which the absent parent has failed to make under such order are at least equal to the support payable for one month, or (if the absent parent contests the withholding) the date specified in the notice given such parent under paragraph (5)(B), whichever of the four is latest, (B) the date as of which the absent parent requests that such withholding begin, or (C) such earlier date as the State may select;

"(4) such withholding must be administered by a public agency designated by the State, and the amounts withheld must be expeditiously distributed by the State or such agency in accordance with section 457 under procedures (specified by the State) which provide for the keeping of adequate records to document payments of support and permit the tracking and monitoring of such payments, except that the State may establish or permit the establishment of alternative procedures for the collection and distribution of such amounts (under the administration of such public agency) otherwise than through such public agency so long as the entity making such collection and distribution is publicly accountable for its actions taken in carrying out such procedures, and so long as such procedures will assure prompt distribution, provide for the keeping of adequate records to document payments of support, and permit the tracking and monitoring of such payments;

"(5) the State (A) must provide advance notice to each individual to whom paragraph (1) applies regarding the proposed withholding and the procedures the individual should follow if he or she desires to contest such withholding on the grounds that withholding (including the amount to be withheld) is not proper in the case involved because of mistakes of fact, and (B) if the individual contests such withholding on the grounds specified in clause (A), shall determine whether such withholding will actually occur, and (if so) shall notify the individual of the date on which such withholding is to begin, within no more than 30 days after the provision of such advance notice;

"(6)(A)(i) the employer of any individual to whom paragraph (1) applies, upon being given notice as described in clause (ii), must be required to withhold from such individual's wages the amount specified by such notice (which shall include a fee, established by the State in accordance with criteria prescribed by the Secretary, to be paid to the employer unless waived by him or her) and pay such amount (after deducting and retaining any portion thereof which represents the fee so established) to the appropriate State agency (or other entity au-

Convention (TS 226, 24 Stat. 1011) contained a similar prohibition.

According to a preliminary estimate made by the U.S. Section of the International Boundary and Water Commission (IBWC), the permitting system proposed in this amendment could result in a saving of as much as $20 million, compared with the exercise of eminent domain, as is presently authorized under P.L. 92-549. Its purpose is consistent with federal flood control efforts. The IBWC would exercise this authority based on a technical analysis of the anticipated impacts on levels and flow velocities, including flood flows, of proposed works, in light of the considerable data and experience accumulated by the IBWC with respect to the hydraulic and other characteristics of these two rivers.

The International Joint Commission, United States and Canada, has long regulated construction affecting boundary waters along our northern border by an analogous approval system pursuant to the 1909 Boundary Waters Treaty (see 22 CFR 401.12 *et seq.*).

In sum, the proposed amendment not only could result in considerable savings to the U.S. Government, but would better assure our capability of fulfilling our treaty responsibilities to Mexico, thus contributing to improved relations with that country.

Enclosed are the draft amendatory legislation and a statement giving the background and analyzing provisions of the proposed amendments.

The Office of Management and Budget has advised that from the standpoint of the Administration's program there is no objection to the presentation of this legislative proposal to the Congress.

With cordial regards,

Sincerely,

ALVIN PAUL DRISCHLER,
Acting Assistant Secretary, Legislative and Intergovernmental Affairs.

By Mr. BAKER (for Mr. NICKLES) (for himself, Mr. BAKER, Mr. JEPSEN, Mrs. KASSEBAUM, Mr. KASTEN, Mr. DECONCINI, Mr. BOREN, and Mr. BURDICK):

S. 2211. A bill to reduce the rates of pay of Members of Congress by the amount of the increase taking effect on January 1, 1984, and for other purposes; placed on the calendar.

REPEAL OF 3.5 PERCENT PAY RAISE FOR MEMBERS OF CONGRESS

● Mr. NICKLES. Mr. President, congressional pay seems to be one of the most sensitive issues that I have encountered since my Senate term began in 1981. Even today it still remains to be highly volatile and I suspect so for many years to come.

My Senate and House colleagues are aware that as of January 1 they received a salary increase of 3.5 percent. This occurred from recommendations made by the President in August 1983 for a pay increase for most Federal workers, including Members of Congress. Unfortunately, Members did not have an opportunity to vote on this latest recommendation. Previous recommendations were nixed or modified by Congress for pay increases for Members and certain other Federal employees or effectively denied through the use of pay caps.

Last November, there remained a strong possibility that we would have the opportunity to vote on the question of a pay increase. Included in the Omnibus Reconciliation Act of 1983 were provisions dealing with Federal pay, including Members of Congress. With the lead of Senator GARN, an amendment was to be proposed to that act to deny the increase. However, due to the tight legislative schedule, the bill never reached the floor of the Senate. At that time, I offered an amendment to the Department of Defense Appropriations Act for fiscal year 1984 prohibiting any increase in congressional pay. Any amendment to that bill, however, would have jeopardized or eliminated its chances of passing the Congress since most of the House Members had anticipated recess and left town, plus, changes meant that a conference on the bill would be necessary, further adding to the scheduling difficulties. In light of these factors, I decided to defer my action on the amendment until this year. I also received assurances from Senator BAKER that I would be afforded an opportunity to have the measure considered.

Therefore, today I am introducing along with Senators BAKER, JEPSEN, GARN, KASSEBAUM, KASTEN, BOREN, BURDICK, and DECONCINI, a bill to revoke the automatic 3.5-percent pay increase given to Members of Congress which took effect on January 1. The revocation would be effective on the date of enactment and would apply to subsequent pay periods.

Soon we will receive the Federal budget submission from the President which will detail nearly $1 trillion in Federal spending with a deficit of approximately $150 billion to $200 billion. I find it extremely difficult to consider a congressional pay raise in light of such awesome figures. We have in the past and will in the future ask for sacrifices from virtually every sector of our society. Congress should set an example and refuse to give itself a pay increase until it shows further fiscal responsibility in cutting runaway Government spending.

I sincerely appreciate the efforts of Senator BAKER in allowing for an opportunity to debate this issue. His commitment to do so was not an easy decision due to the controversial nature of a pay increase. I know, however, it is his desire to see the Senate work its will. For these reasons I wish to commend the majority leader for his work.

I ask unanimous consent that the text of the bill to printed at this point in the CONGRESSIONAL RECORD.

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

S. 2211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) on and after the date of enactment of this Act, the rate of pay for an office or position referred to in section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) shall be the same as the rate of pay payable for such office or position on December 31, 1983.

(b) For the purposes of any rule, regulation, or order having the force and effect of law and limiting the annual rates of compensation of officers and employees of the Congress by reference to the annual rate of pay of any Member of the Congress, the annual rate of pay of such Member shall be deemed to be the annual rate of pay that would be payable to such Member without regard to subsection (a).●

Mrs. KASSEBAUM. Mr. President, I am joining with Senator NICKLES and others in offering legislation to repeal the 3.5-percent pay raise for Members of Congress that took effect on January 1. My reason is simple. This Congress now faces the very real prospect of $200 billion deficits each year to the end of this decade. If we are to have any hope of constructively addressing that serious problem, then we—the Members of this body—must demonstrate some restraint as an example for the Nation.

It will do no good at all for us to rail against the deficit while we quietly accept yet another raise in our own pay. The message that this transmits to all of those groups who will have to sacrifice in any effective solution for deficits is exactly the wrong message. It is another refrain of the old song about letting someone else bear the burden. How can we ask others to sacrifice when we ourselves refuse to do so?

Last year a substantial pay raise was approved for Members of the Senate. Very, very reluctantly, I voted for that measure because I believed it was the only way to resolve the mess we had made of congressional salaries. But I can see utterly no justification for another cost-of-living raise on top of that increase. The people of this country want us to deal with the deficit, not raise our own salaries. It is time for us to do that, beginning with the repeal of this 3.5-percent raise for Senators and House Members.

By Mr. BURDICK:

S.J. Res. 211. Joint resolution designating the week of November 18, 1984, through November 24, 1984, as "National Family Week"; to the Committee on the Judiciary.

NATIONAL FAMILY WEEK

● Mr. BURDICK. Mr. President, today I am introducing again a joint resolution to authorize the President to issue a proclamation designating November 18 through 24, 1984, as "National Family Week."

The purpose of National Family Week is very simple. It is a specific time to recognize the importance of the family in American life and the fundamental role it has played in forming the values upon which our Nation is based. National Family Week is simply a way to encourage people to pause for a moment and reflect on the way families have affected their lives and the course of this Nation.

under paragraph (1) of this subsection, in any district court of the United States.

"(3) Any person who constructs new works or modifies existing works without having received a permit, or violates any term, condition or limitation in a permit issued by the United States Commissioner under this section, and any person who violates any order issued by the United States Commissioner under paragraph (1) of this subsection—

(A) may be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both; and

(B) may be subject to a civil penalty not to exceed $10,000 per day of such violation.

If the conviction under subparagraph (A) is for a violation committed after a first conviction of such person under this paragraph, punishment may be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

"(e) The term person, as used in this section, means an individual, corporation (including any responsible corporate officer), partnership, association, state, municipality, commission or other governmental organization of a state, or any interstate body."

"(f) Any agency of the United States Government proposing to undertake a project that will result in any construction in the areas described in subsection (a) shall, at the earliest feasible time, coordinate with the United States Commissioner to secure approval of the proposed project. Such approval may be made subject to such terms or conditions as are deemed necessary to ensure compliance with the provisions of pertinent international agreements in force with Mexico.".

STATEMENT OF PURPOSE AND NEED

This is a legislative proposal to amend Public Law 92-549, the American-Mexican Boundary Treaty Act of 1972. This amendment would authorize a permitting system as the primary means of prohibiting the construction of works which may cause the deflection or obstruction of the normal or flood flows of the boundary sections of the Rio Grande and the Colorado River. By authorizing a regulatory or permitting system, this amendment would provide a more practical and less expensive means of implementing the terms of Article IV(B)(1) of the Mexican Boundary Treaty of 1970 (23 UST 371; TIAS 7313) than is now authorized under P.L. 92-549.

The purpose of Article IV(B)(1) of the 1970 Treaty is to prevent deflections or obstructions of flows from causing a change in the location of the international boundary and thus to avoid a repetition of disputes which have arisen between the United States and Mexico. The predecessor 1884 Convention (TS 226, 24 Stat. 1011) contained a similar prohibition.

According to a preliminary estimate made by the U.S. Section of the International Boundary and Water Commission (IBWC), the permitting system proposed in this amendment could result in a saving of as much as $20 million, compared with the exercise of eminent domain, as is presently authorized under P.L. 92-549. Its purpose is consistent with federal flood control efforts. the IBWC would exercise this authority based on a technical analysis of the anticipated impacts on levels and flow velocities, including flood flows, of proposed works, in light of the considerable data and experience accumulated by the IBWC with respect to the hydraulic and other characteristics of these two rivers.

The International Joint Commission, United States and Canada, has long regulated construction affecting boundary waters along our northern border by an analogous approval system pursuant to the 1909 Boundary Waters Treaty (see 22 CFR 401.12 *et seq.*).

Public Law 92-549, § 101(2)(C), 22 U.S.C. § 277d-34(2)(C), authorizes the Secretary of State, acting through the United States Commissioner, to acquire by donation, purchase or condemnation, all lands or interests in lands required to give effect to the responsibility of the United States under Article IV(B)(1). The proposed regulatory process would be applied only when this would result neither in a taking, nor a curtailment of present uses, and would be a substantially less expensive alternative to the exercise of eminent domain. The option of exercising eminent domain is reserved where in the Commissioner's judgment it is desirable and appropriate, or where a specific denial of a permit is deemed a taking.

Subsection a) makes it unlawful to construct new works or modify existing works on the United States side of either the main channel or on adjacent lands subject to overflow of the limitrophe sections of either the Rio Grande or Colorado River, unless an application showing the location and plans of any proposed works has been submitted to the United States Commissioner and the United States Commissioner has issued a corresponding permit. The role of the United States Commissioner acting alone is ministerial; the discretion whether or not to approve a work, and if so, on what conditions, lies with the joint Commission, which is an international organization under Article II of the 1944 Treaty Relating to the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande. (9 Bevans 1166, 59 Stat. 1219).

Subsection b) contemplates that the United States Commissioner, in order to ensure compliance by the United States with the terms of the Treaty, will refer an application to the joint Commission for decision, and will incorporate in the permit any conditions deemed necessary and appropriate in cases where the work is permitted. Every effort will be made to provide applicants with speedy processing of requests for authorization, in particular by means of expedited Commission procedures in very simple cases, while at the same time ensuring that United States Treaty obligations are carefully respected in appropriate cooperation with the Mexican Section of the Commission. The flexibility provided by the proposed permit process is consistent with the discretion implied by the Treaty provision in framing procedures to achieve its objectives. The criterion incorporated in the first sentence of the subsection specifically reflects and is in accordance with the obligations of the two countries under Article IV(B)(1) of the 1970 treaty.

Subsection c) authorizes the United States Commissioner to promulgate and publish in 22 CFR permit application procedures, and to ensure that these procedures are consistent with other legal responsibilities of the joint Commission and the United States Section. Since the joint Commission is an international organization which performs foreign affairs functions, its procedures need not be consistent with the Administrative Procedure Act, 5 U.S.C. Sec. 551 et seq. *See* 5 U.S.C. Sec. 553(a)(1); Sec. 554(a)(4). This subsection also requires the United States Commissioner to coordinate application procedures with the Corps of Engineers and other specified federal agencies to avoid needless duplication.

Subsection d) deals with enforcement procedures and possible penalties for violation of the requirements of this section.

Paragraph d)(1) authorizes the United States Commissioner to issue an order to compel cessation of construction (including modifications of existing works) without a permit, or require compliance with the conditions contained in a permit, and to bring a civil action under paragraph d)(2) upon failure to comply with his order. The Commissioner may issue an order at the commencement of construction or at any time thereafter.

Paragraph d)(2) authorizes the United States Commissioner to commence a civil action for appropriate relief whenever he would be entitled to issue a compliance order under paragraph d)(1).

Paragraph d)(3) details penalties for violations of this section.

Subparagraph d)(3)(A) contains criminal penalties which may be imposed for failure to obtain a permit or violation of conditions contained in a permit, or failure or comply with an order issued by the United States Commissioner under paragraph d)(1), including penalties for multiple violations of this section.

Subparagraph d)(3)(B) contains civil penalties which may be imposed for failure to obtain a permit, violation of the conditions contained in a permit, or failure to comply with an order issued by the United States Commissioner under paragraph d)(1).

Subsection e) defines the term "person" as used in this section.

Subsections d) and e) are generally consistent with provisions of existing, analogous United States legislation.

Subsection f) provides an informal process to be utilized by federal agencies to seek approval of federal projects. The proposed permit system provided for in subsections a)-d) is not intended to apply to projects of agencies of the Federal Government. While still subject to the need to coordinate with the United States Commissioner, and secure the approval of the joint Commission, in order to ensure full United States compliance with Treaty obligations, federal agencies under this subsection would utilize a more informal process, and would not be subject to enforcement measures for noncompliance applicable to "persons" as defined by subsection e). The United States Commissioner would refer requests for approval to the joint Commission, on the same basis as described in respect of subsection b), above.

U.S. DEPARTMENT OF STATE,
Washington, D.C., November 15, 1983.

Hon. GEORGE BUSH,
President of the U.S. Senate.

DEAR MR. PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal to amend Public Law 92-549, the American-Mexican Boundary Treaty Act of 1972. This amendment would authorize a permitting system as the primary means of prohibiting the construction of works which may cause the deflection or obstruction of the normal or flood flows of the boundary sections of the Rio Grande and the Colorado River. By authorizing a regulatory or permitting system, this amendment would provide a more practical and less expensive means of implementing the terms of Article IV(B)(1) of the Mexican Boundary Treaty of 1970 (23 UST 371; TIAS 7313) than is now authorized under P.L. 92-549.

The purpose of Article IV(B)(1) of the 1970 Treaty is to prevent deflections or obstructions of flows from causing a change in the location of the international boundary and thus to avoid a repetition of disputes which have arisen between the United States and Mexico. The predecessor 1884