1981–82 MISCELLANEOUS TAX BILLS

HEARING

BEFORE THE

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT GENERALLY

OF THE

COMMITTEE ON FINANCE UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

S. 31

A BILL TO AMEND THE INTERNAL REVENUE CODE OF 1954 WITH RESPECT TO THE DEDUCTION OF CERTAIN EXPENSES IN CONNECTION WITH THE BUSINESS USE OF HOMES AND THE RENTAL OF RESIDENCES TO FAMILY MEMBERS, AND FOR OTHER PURPOSES

S. 239

A BILL TO AMEND THE INTERNAL REVENUE CODE OF 1954 TO PROVIDE A CREDIT AGAINST INCOME TAX FOR THE PURCHASE OF A COMMUTER HIGHWAY VEHICLE, TO EXCLUDE FROM GROSS INCOME CERTAIN AMOUNTS RECEIVED IN CONNECTION WITH THE PROVISION OF ALTERNATIVE COMMUTER TRANSPORTATION, TO PROVIDE EMPLOYERS A CREDIT AGAINST TAX FOR COSTS INCURRED IN RIDE-SHARING PROGRAMS, AND FOR OTHER PURPOSES

S. 452

A BILL TO AMEND THE INTERNAL REVENUE CODE OF 1954 WITH RESPECT TO THE TREATMENT OF GAIN ON THE SALE OR EXCHANGE OF FOREIGN INVESTMENT COMPANY STOCK

FEBRUARY 23, 1981

Printed for the use of the Committee on Finance

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MISCELLANEOUS TAX BILLS

MONDAY, FEBRUARY 23, 1981

U.S. SENATE,
SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT,
COMMITTEE ON FINANCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2221, Dirksen Senate Office Building, Hon. Bob Packwood (chairman of the subcommittee) presiding.

Present: Senators Packwood, Durenberger, Byrd, and Armstrong.

[The committee press release announcing this hearing; the bills S. 31, S. 239, S. 452; the summary of these bills; and the opening statement of Chairman Dole follow:]

Press Release #81-106

PRESS RELEASE

FOR IMMEDIATE RELEASE
February 12, 1981

COMMITTEE ON FINANCE
UNITED STATES SENATE
Subcommittee on Taxation and
Debt Management
2227 Dirksen Senate Office Bldg.

FINANCE SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT
SETS HEARING ON MISCELLANEOUS TAX BILLS

Senator Bob Packwood, Chairman of the Subcommittee on Taxation and Debt Management of the Senate Committee on Finance announced today that the Subcommittee will hold a hearing on February 23, 1981 on miscellaneous tax bills.

The hearing will begin at 10:00 a.m. in Room 2221 of the Dirksen Senate Office Building.

The following pieces of legislation of general application will be considered on February 23, 1981.

S. 31 -- Introduced by Senator Armstrong for himself and others. Would remove certain limitations on deductibility of business expenses related to residences, including repeal of the restrictions on family rentals, use of the home as a second place of business and certain definitional rules as to when a residence is used for personal purposes.

S. 239 -- Introduced by Senator Durenberger for himself and others. Would provide an individual tax credit for the purchase of commuter vans, an exclusion from income of employees for certain employer furnished transportation and certain tax credits for purchase of commuter vans and operation of employee ride programs.

S. 452 -- Introduced by Senator Boren. Would exclude from tax as ordinary income gain realized on the sale of stock of a corporation with respect to earnings and profits accrued during a year in which such corporation was not a foreign investment company.

Witnesses who desire to testify at the hearing on February 23, 1981 must submit a written request to Robert E. Lighthizer, Chief Counsel, Committee on Finance, Room 2227 Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on February 18, 1981.

Legislative Reorganization Act. -- Senator Packwood stated that the Legislative Reorganization Act of 1946, as amended requires all witnesses appearing before the Committees of Congress "to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument."

Witnesses scheduled to testify should comply with the following rules:

(1) A copy of the statement must be filed by noon the day before the day the witness is scheduled to testify.

(2) All witnesses must include with their written statement a summary of the principal points included in the statement.

(3) The written statements must be typed on letter-size paper (not legal size) and at least 100 copies must be submitted by the close of business the day before the witness is scheduled to testify.

(4) Witnesses should not read their written statements to the Subcommittee, but ought instead to confine their oral presentations to a summary of the points included in the statement.

Written statements. -- Witnesses who are not scheduled to make an oral presentation, and others who desire to present their views to the Subcommittee, are urged to prepare a written statement for submission and inclusion in the printed record on the hearings. These written statements should be typewritten, not more than 25 double-spaced pages in length, and mailed with five (5) copies to Robert E. Lighthizer, Chief Counsel, Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than Tuesday, March 10, 1981.

P.R. #81-106

II

97TH CONGRESS
1ST SESSION

S. 31

To amend the Internal Revenue Code of 1954 with respect to the deduction of certain expenses in connection with the business use of homes and the rental of residences to family members, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 5, 1981

Mr. ARMSTRONG (for himself, Mr. DOLE, Mr. BOREN, Mr. MATHIAS, Mr. GOLDWATER, and Mr. EXON) introduced the following bill; which was read twice and referred to the Committee on Finance

---

A BILL

To amend the Internal Revenue Code of 1954 with respect to the deduction of certain expenses in connection with the business use of homes and the rental of residences to family members, and for other purposes.

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

SECTION 1. AMENDMENT OF SECTION 280A.

(a) BUSINESS USE OF HOME.—Subparagraph (A) of section 280A(c)(1) of the Internal Revenue Code of 1954 (relating to certain business use) is amended to read as follows:

"(A) a principal place of business for any trade or business of the taxpayer,".

(b) USE OF RESIDENCE BY FAMILY MEMBER.—Subsection (d) of section 280A of such Code (relating to use as residence) is amended—

(1) by striking out ", or by any member of the family (as defined in section 267(c)(4)) of the taxpayer or such other person" in paragraph (2), and

(2) by striking out "to a person other than a member of the family (as defined in section 267(c)(4)) of the taxpayer" in paragraph (3).

(c) REPAIR AND MAINTENANCE OF DWELLING UNIT.—Notwithstanding any ruling, proposed regulation, or regulation to the contrary, a dwelling unit shall not be treated as used by the taxpayer for personal purposes under section 280A on a day on which the taxpayer is engaged in repair or maintenance work on the dwelling unit on a substantially full-time basis because other individuals on the premises on that day who are capable of working do not work on the unit on a substantially full-time basis.

SEC. 2. APPLICATION OF SECTION 1.

The amendments made by subsections (a) and (b) of section 1 of this Act and subsection (c) of such section shall apply with respect to all taxable years to which section 280A of the Internal Revenue Code of 1954 applies.

O

II

97TH CONGRESS
1ST SESSION

S. 239

To amend the Internal Revenue Code of 1954 to provide a credit against income tax for the purchase of a commuter highway vehicle, to exclude from gross income certain amounts received in connection with the provision of alternative commuter transportation, to provide employers a credit against tax for costs incurred in ride-sharing programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 22 (legislative day, JANUARY 5), 1981

Mr. DURENBERGER (for himself, Mr. PERCY, Mr. BENTSEN, Mr. HAYAKAWA, Mr. PELL, Mr. TSONGAS, Mr. HATFIELD, Mr. HEFLIN, Mr. ANDREWS, Mr. MATHIAS, Mr. SPECTER, and Mr. SASSER) introduced the following bill; which was read twice and referred to the Committee on Finance

---

A BILL

To amend the Internal Revenue Code of 1954 to provide a credit against income tax for the purchase of a commuter highway vehicle, to exclude from gross income certain amounts received in connection with the provision of alternative commuter transportation, to provide employers a credit against tax for costs incurred in ride-sharing programs, and for other purposes.

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE: TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Commuter Transportation Energy Efficiency Act of 1981".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

(c) TABLE OF CONTENTS.—

TITLE V—GASOLINE TAX DEDUCTION

TITLE I—INDIVIDUAL INCOME TAX CREDIT

SEC. 101. PROVIDING A 15 PERCENT INDIVIDUAL INCOME TAX CREDIT.

Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by—

(a) inserting before section 45 the following new section:

"SEC. 44F. COMMUTER HIGHWAY VEHICLE.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the cost to the taxpayer to acquire a qualified commuter highway vehicle.

"(b) LIMITATIONS.—

"(1) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the credits allowable under a section of this part having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43.

"(2) JOINT ACQUISITION.—If any qualified commuter highway vehicle is jointly acquired by 2 or more individuals, the amount allowable as a credit for the taxable year shall be apportioned among such individuals on the basis of their respective shares of the cost.

"(c) 3-YEAR USE REQUIREMENT.—

"(1) IN GENERAL.—If, during the 3-year period beginning on the date of acquisition of any qualified commuter highway vehicle, the taxpayer—

"(A) disposes of such vehicle, or

"(B) otherwise ceases to use such vehicle as a qualified commuter highway vehicle,

then the tax under this chapter for the taxable year in which such cessation or disposition occurs shall be increased by an amount equal to the amount of the credit allowed under subsection (a) with respect to such vehicle.

"(2) SUBSECTION NOT TO APPLY.—Paragraph (1) shall not apply to a disposition by reason of death.

"(3) DETERMINATION OF OTHER CREDITS.—Any increase in tax under subsection (a) for any taxable year shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under this subpart for such year.

"(d) QUALIFIED COMMUTER HIGHWAY VEHICLE DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified commuter highway vehicle' means a highway vehicle—

"(A) the seating capacity of which is at least 8 adults (not including the driver).

"(B) at least 50 percent of the mileage use of which can reasonably be expected to be—

"(i) for purposes of transporting individuals between their residences or gathering points and places of employment, and

"(ii) on trips during which the number of individuals transported for such purposes is at least one-half of the adult seating capacity of such vehicle (not including the driver, and

"(C) which is not used in trade or business.

"(2) TRADE OR BUSINESS.—For purposes of paragraph (1)(C), use of a commuter highway vehicle for the purposes described in paragraph (1)(B) shall not be considered a trade or business if—

"(A) the taxpayer would otherwise travel from his principal residence to his place of employment over such route or a similar route even

if other individuals were not transported by him, and

"(B) such vehicle is generally not available to the public.".

(b)(1) The table of sections for such subpart A is amended by inserting after the item relating to section 44E the following item:

"Sec. 44F. Commuter highway vehicles.".

(2) Section 6096(b) (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44E" and "44F".

SEC. 102. EFFECTIVE DATE.

The amendments made by the first title of this Act shall apply to taxable years beginning after December 31, 1980.

TITLE II—EXCLUSION OF QUALIFIED TRANSPORTATION INCOME FROM GROSS INCOME

SEC. 201. QUALIFIED TRANSPORTATION EXCLUDED FROM GROSS INCOME.

(a) Subsection (b) of section 124 is amended to read as follows:

"(b) QUALIFIED TRANSPORTATION.—For purposes of this section, the term 'qualified transportation' means transportation—

"(1) by a commuter highway vehicle (as defined in section 46(c)(6)(B) but without regard to clause (iii) or (iv) thereof), or

"(2) which is scheduled land or water transportation which is—

"(A) in a vehicle or vessel with seating capacity of 8 or more adults (not including the operator),

"(B) along regular routes, and

"(C) available to the general public.".

(b) Paragraph (1) of section 124(d) (defining provided by the employer) is amended to read as follows:

"(1) PROVIDED BY THE EMPLOYER.—Transportation shall be considered to be provided by the employer if—

"(A) the transportation is furnished in a commuter highway vehicle (described in subsection (b)(1)) operated by or for the employer; or

"(B) the employer pays for qualified transportation (described in subsection (b)) or reimburses the employee for the cost to the employee of such qualified transportation.".

(c) Section 124 (relating to qualified transportation provided by an employer) is amended by redesignating subsec-

tion (e) as (f) and inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULE FOR RIDE-SHARING PROGRAMS.—

"(1) IN GENERAL.—For purposes of subsection (a), any services provided by an employer in connection with a ride-sharing program shall be treated as qualified transportation provided by the employer.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) RIDE-SHARING PROGRAM.—The term 'ride-sharing program' means any program to assist employees in locating other employees to share transportation between the employees' residence or gathering point and places of employment.

"(B) SERVICES PROVIDED BY EMPLOYER.—The term 'services provided by the employer' includes but is not limited to—

"(i) any amounts contributed by the employer,

"(ii) any compensation paid to any employee operating or assisting in a ride-sharing program,

"(iii) any computer services provided by the employer,

"(iv) any one or all of the services listed in section 44(G)(d)(2) of subpart A of part IV of subchapter A of chapter 1.".

SEC. 202. INCOME FROM OPERATION OF TRANSPORTATION POOLS.

(a) Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 128 as section 129 and by inserting after section 127 the following new section:

"SEC. 128. INCOME FROM OPERATION OF TRANSPORTATION POOLS.

"In the case of an individual who—

"(1) owns a motor vehicle the seating capacity of which is not more than 15 adults;

"(2) transports individuals between their places of residence and places of employment or other places of gathering;

"(3) would otherwise travel to one such place of employment or gathering even if he did not transport any other individuals; and

"(4) does not make such vehicle generally available to the public,

gross income does not include amounts received as compensation for the providing of transportation to such individuals.".

(b) The table of sections for such subpart is amended by striking out the item relating to section 128 and by inserting in lieu thereof the following:

"Sec. 128. Income from operation of transportation pools.
"Sec. 129. Cross references to other Acts.".

SEC. 203. EFFECTIVE DATE.

The amendments made by this title shall apply to taxable years beginning after December 31, 1980.

TITLE III—BUSINESS ENERGY INVESTMENT CREDIT

SEC. 301. PROVIDING A 20-PERCENT BUSINESS INVESTMENT CREDIT.

(a) Subparagraph (A) of section 48(l)(2) (defining energy property) is amended—

(1) by striking out "or" at the end of clause (viii),

(2) by inserting "or" at the end of clause (ix), and

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

"(x) commuter highway vehicles (as defined in section 46(c)(6)(B)),".

(b) The table contained in clause (i) of section 46(a)(2)(C) of such Code (relating to energy percentage) is

amended by adding at the end thereof the following new subclause:

"VII. Commuter Highway Vehicles.—Property described in section 48(l)(2)(A)(x).	10 percent	January 1, 1981	December 31, 1985".

SEC. 302. INVESTMENT CREDIT NOT RESTRICTED TO EMPLOYEES.

Paragraph (6) of section 46(c) (relating to special rule for commuter highway vehicle) is amended by striking out "the taxpayer's" in subparagraph (B)(ii)(I) thereof.

SEC. 303. DRIVER INCENTIVE MILEAGE.

Paragraph (6) of section 46(c) (relating to special rule for commuter highway vehicle) is amended by adding at the end thereof the following new subparagraph:

"(C) DRIVER INCENTIVE MILEAGE.—If an individual other than the taxpayer is the regularly scheduled driver of a highway vehicle, the taxpayer shall not take into account, for purposes of determining if such a vehicle meets the requirements of subparagraph (B)(ii), the number of miles which the driver uses such vehicle for personal purposes.".

SEC. 304. EFFECTIVE DATE.

The amendments made by this title shall apply to property acquired after December 31, 1980.

TITLE IV—EMPLOYER'S TAX CREDIT FOR QUALIFIED RIDE-SHARING PROGRAMS

SEC. 401. PROVIDING A TAX CREDIT FOR QUALIFIED RIDE-SHARING PROGRAMS

(a) Subpart A of part IV of subchapter A of chapter 1 is amended by inserting before section 45 the following new section:

"SEC. 44G. RIDE-SHARING PROGRAMS OF EMPLOYERS.

"(a) GENERAL RULE.—In the case of an employer operating a qualified ride-sharing program, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the lesser of—

"(1) the amount paid or incurred in connection with such program during such taxable year, or

"(2) the amount determined under subsection (b).

"(b) SUBSECTION (b) AMOUNT.—

"(1) IN GENERAL.—The amount determined under this subsection is equal to the product of—

"(A) the average number of employees of the employer during the taxable year, multiplied by—

"(B) the amount determined under the table under paragraph (2).

"(2) TABLE.—

"If the percentage of employees participating in the program is:	The amount is:
0 to 14 percent	$00.00
15 to 19 percent	5.00
20 to 24 percent	7.50
25 to 29 percent	10.00
30 to 34 percent	12.50
35 to 39 percent	15.00
40 to 44 percent	20.00
45 to 49 percent	25.00
50 or more percent	30.00

"(3) DEFINITION AND SPECIAL RULES.—For the purposes of this subsection—

"(A) PERCENTAGE OF EMPLOYEES PARTICIPATING.—The term 'percentage of employees participating in the program' means a percentage equal to a fraction—

"(i) the numerator of which is the number of employees whose transportation between their principal residence and place of employment at least 176 days during the calendar year in which the taxable year begins is qualified transportation, and

"(ii) the denominator of which is the number of employees determined under paragraph (1)(A);

"(B) EMPLOYEES TAKEN INTO ACCOUNT.—For purposes of paragraphs (1)(A) and (3)(A)(i) only employees at places of employment of the employer where a qualified ride-sharing program

is in operation during the taxable year shall be taken into account.

"(C) WHOLE PERCENTAGE.—Any fraction of a percentage determined under subparagraph (A) shall be rounded to the next highest whole percentage.

"(c) LIMITATIONS.—

"(1) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by this section for the taxable year shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowed under a section of this subpart having a lower number designation than this section, other than credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(2) CERTAIN COSTS NOT INCLUDED.—No amount paid or incurred for—

"(A) the acquisition and maintenance of any vehicle (other than a vehicle described in subsection (d)(2)(I)),

"(B) fuel to operate any such vehicle, or

"(C) mass transportation fares or subsidies, shall be taken into account for purposes of subsection (a)(1).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED RIDE-SHARING PROGRAM.—The term 'qualified ride-sharing program' means any program to aid employees in obtaining qualified transportation between their principal residence and place of employment which—

"(A) provides at least one of the services described in paragraph (2);

"(B) is set forth in a separate written plan; and

"(C) does not discriminate in favor of employees who are officers, shareholders, or highly compensated employees.

"(2) SERVICES INCLUDED.—Services described in this paragraph include—

"(A) the surveying of employees to determine current commuting patterns and interest in qualified transportation,

"(B) the distribution of informational material on the advantages and availability of qualified transportation,

"(C) contracting for assistance in establishing, sponsoring, or operating a qualified ride-sharing program,

"(D) providing assistance (including computer costs) for employee matching to establish carpools or vanpools,

"(E) assessing the impact of qualified ride-sharing programs,

"(F) signing or improving parking spaces reserved for qualified transportation vehicles,

"(G) adjusting working hours for employees participating in a qualified ride-sharing program,

"(H) providing liability insurance for qualified transportation vehicles,

"(I) providing emergency or business vehicles for the use of employees (during normal working hours) who commute to work in qualified transportation vehicles, and

"(J) such other services as the Secretary, after consultation with the Secretary of Transportation, determines contributes to the effectiveness of the qualified ride-sharing program.

"(3) QUALIFIED TRANSPORTATION.—The term 'qualified transportation' means transportation—

"(A) by a commuter highway vehicle, as defined in subparagraph (B) of section 46(c)(6) except that such subparagraph shall be applied without regard to clause (iii) or (iv);

"(B) by any highway vehicle—

"(i) the seating capacity of which is less than 8 adults (not including the driver), and

"(ii) which is used for transporting an average of 3 employees between their residences and their place of employment for at least the lessor of—

"(I) 176 days during the calendar year in which the taxable year begins, or

"(II) one-half of the days on which the taxpayer held such highway vehicle during such calendar year; or

"(C) which is scheduled land or water transportation which is—

"(i) in a vehicle or vessel with seating capacity of 8 or more adults (not including the operator),

"(ii) along regular routes, and

"(iii) available to the general public.

"(4) PASSTHROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply.".

(b)(1) The table of sections for such subpart A is amended by inserting after the item relating to section 44F the following new item:

"Sec. 44G. Ride-sharing program of employers.".

SEC. 402. EFFECTIVE DATE.

The amendments made by this title shall apply to taxable years beginning after December 31, 1980.

TITLE V—GASOLINE TAX DEDUCTION

SEC. 501. PROVIDING FOR A DEDUCTION FOR QUALIFIED MOTOR FUEL TAXES.

Subsection (a) of section 164 (relating to deduction for taxes) is amended by inserting immediately after paragraph (5) the following new paragraph:

"(6) Qualified motor fuel taxes.".

SEC. 502. DEFINITION OF QUALIFIED MOTOR FUEL TAXES.

Section 164 (relating to deduction for taxes) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new section:

"(f) QUALIFIED MOTOR FUEL TAXES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified motor fuel taxes' means Federal, State or local taxes on the sale of gasoline, diesel fuel, and other motor fuels used as a fuel in a ride-sharing vehicle.

"(2) IMPORT ADJUSTMENTS TREATED AS TAX.—For purposes of paragraph (1), any increase in the sales price of any fuel as a result of any action taken by the President to adjust imports of petroleum and petroleum products under section 232(b) of the Trade Expansion Act of 1962 (19 U.S.C. 1862) (or any other corresponding provision of law) shall be treated as a Federal tax imposed on such fuel.

"(3) RIDE-SHARING VEHICLE.—The term 'ride-sharing vehicle' means—

"(A) a commuter highway vehicle, as defined in subparagraph (B) of section 46(c)(6) except that such paragraph shall be applied without regard to clause (iii) or (iv), and

"(B) any highway vehicle—

"(i) the seating capacity of which is less than 8 adults (not including the driver) and

"(ii) which is used for transporting an average 3 employees between their residences and their place of employment for at least the lessor of—

"(I) 176 days during the calendar year in which the taxable year begins, or

"(II) one-half of the days on which the taxpayer held such highway vehicle during such calendar year.

"(4) PUBLICATION OF TABLE.—The Secretary may publish tables to assist taxpayers in computing the amount of the deduction allowable under subsection (a)(6). Such tables shall take into account—

"(A) the rate of taxes (including the price impact attributable to any import adjustment).

"(B) the number of days a ride-sharing vehicle was used for ride-sharing purposes, and

"(C) the number of miles such vehicle is used for such purposes.".

SEC. 503. EFFECTIVE DATE.

The amendments made by this title shall apply to taxable years beginning after December 31, 1980.

O

II

97TH CONGRESS
1ST SESSION

S. 452

To amend the Internal Revenue Code of 1954 with respect to the treatment of gain on the sale or exchange of foreign investment company stock.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 6 (legislative day, JANUARY 5), 1981

Mr. BOREN introduced the following bill; which was read twice and referred to the Committee on Finance

---

A BILL

To amend the Internal Revenue Code of 1954 with respect to the treatment of gain on the sale or exchange of foreign investment company stock.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subparagraph (B) of section 1246(a)(2) of the Internal Revenue Code of 1954 (defining ratable share) is amended to read as follows:

"(B) excluding such earnings and profits attributable to—

"(i) any period during which such corporation was not a foreign investment company but only if such corporation was not a foreign investment company at any time before such period, or

"(ii) any amount previously included in the gross income of such taxpayer under section 951 (but only to the extent the inclusion of such amount did not result in an exclusion of any other amount from gross income under section 959).".

(b) The amendment made by subsection (a) shall apply to sales or exchanges after the date of the enactment of this Act in taxable years ending after such date.

INTRODUCTION

The bills described in this pamphlet have been scheduled for a public hearing on February 23, 1981, by the Senate Finance Subcommittee on Taxation and Debt Management.

There are three bills scheduled for the hearing: S. 31 (relating to deductions for business use of homes and rental of residences to family members), S. 239 (relating to tax incentives for purchase of commuter highway vehicles), and S. 452 (relating to treatment of gain on sale or exchange of foreign investment company stock).

The first part of the pamphlet is a summary of the bills. This is followed by a more detailed description of the bills (in numerical order), including present law, issues, an explanation of the provisions of the bills, effective dates, and estimated revenue effects.

I. SUMMARY

1. S. 31—Senators Armstrong, Dole, Boren, Mathias, Goldwater, and Exon

Deductions for Business Use of Homes and Rental of Residences to Family Members

This bill would amend section 280A to provide explicitly that a taxpayer may have a principal place of business within his home for any separate trade or business, and to remove certain present law limitations on the deductibility of expenses incurred in the rental of residences to family members. The bill also would prevent any ruling or regulation from treating a day on which the taxpayer is engaged on a substantially full-time basis in repair or maintenance work on a rental dwelling unit as a day of personal use because other individuals may not be similarly engaged in full-time work on that day. The provisions of the bill would apply to all taxable years to which section 280A applies.

2. S. 239—Senators Durenberger, Percy, Bentsen, Hayakawa, Pell, Tsongas, Hatfield, Heflin, Mathias, Specter, Sasser and Ford

Credit for Purchase of Commuter Highway Vehicles, Exclusions from Income of Alternative Commuter Transportation, and Credit for Ride-Sharing Expenses

Under present law, an employer is entitled to the regular 10-percent investment credit (but not an energy investment credit) on the purchase of a new commuter highway vehicle (sec. 46(c)(6)). When an employer uses leased vehicles to provide rides, the investment credit is allowed to the owner of the vehicles, under the general investment credit rules. The investment credit for a commuter highway vehicle is not allowed to a nonbusiness individual. The gross income of an employee does not include the value of employer-provided transportation in a commuter highway vehicle (sec. 124), although in general, amounts received by employees as reimbursement for otherwise nondeductible personal expenses must be included in gross income. To the extent that Federal, State or local taxes are imposed on motor fuels used in a taxpayer's trade, business or investment activity, they generally are deductible as ordinary and necessary business expenses or as expenses incurred in a profit seeking activity (secs. 162 and 212). However, such taxes are not deductible by an individual for the nonbusiness use of motor fuels.

Under the bill, a 15-percent income tax credit would be allowed to a nonbusiness individual for the purchase of a new commuter highway vehicle. The bill would exclude from an individual's gross income amounts received from the employer for trips between home

and work which are made on public transportation, employer-provided services performed in connection with a ride-sharing program and compensation received for transporting other individuals between home and work. The bill also would allow a 10-percent energy investment credit to businesses for the purchase of a new commuter highway vehicle and allow investment tax credits without regard to whether the riders are the taxpayer's employees. In addition, the bill would allow a new income tax credit to an employer who operates a qualified ride-sharing program which assists employees in obtaining certain transportation between their homes and work. Further, the bill would allow an itemized deduction for Federal, State or local taxes imposed on sales of motor fuels used in a ride-sharing vehicle.

3. S. 452—Senator Boren

Gain on Sale of Stock of Foreign Investment Company

Under present law, gain from the sale of stock of a corporation which is, or at any time has been, a foreign investment company generally is treated as ordinary income to the extent of the selling shareholder's portion of the corporation's earnings and profits. Under the bill, gain attributable to earnings and profits for the period before the corporation became a foreign investment company would no longer be subject to this ordinary income treatment.

II. DESCRIPTION OF BILLS

1. S. 31—Senators Armstrong, Dole, Boren, Mathias, Goldwater, and Exon

Deductions for Business Use of Homes and Rental of Residences to Family Members

Present law

General

Section 280A, enacted as part of the Tax Reform Act of 1976, disallows the deduction of certain expenses incurred in connection with the use of the taxpayer's home in a trade or business or income producing activity or in connection with the rental of vacation homes and other residential real estate. The restrictions in section 280A were enacted to replace vague standards on which courts and the Internal Revenue Service differed with more definitive, objective statutory tests for determining the deductibility of expenses. Section 280A applies to individuals, trusts, estates, partnerships and electing small business corporations.

The deductions under sections 163, 164 and 165 for interest, certain taxes, and casualty losses attributable to a taxpayer's personal residence are not affected by section 280A.

Business use of the home

Unless specifically excepted from section 280A and otherwise allowable, no deductions are allowed with respect to a dwelling unit because of its connection to a taxpayer's trade or business or income producing activities, if the taxpayer uses the dwelling as a residence. One exception to the general rule of section 280A allows deductions attributable to a portion of the taxpayer's residence which is exclusively used on a regular basis as the taxpayer's principal place of business.

On August 7, 1980, proposed Treasury Regulations under section 280A were published in the Federal Register (45 Fed. Reg. 52399). The proposed regulations would define "the taxpayer's principal place of business" as the principal place of the taxpayer's overall business activity. A taxpayer would have only one principal place of business regardless of the number of business activities in which the taxpayer is engaged. The proposed regulations do not follow the U.S. Tax Court decision in *Curphey* v. *Commissioner*, 73 T.C. 766 (1980), which allowed a hospital-employed dermatologist to deduct expenses for a home office which was the principal place of business for his real estate rental business.

Personal use of residence

Section 280A, in general, limits the amount a taxpayer may deduct for expenses attributable to the rental of a dwelling unit, in many cases a vacation home, if the taxpayer uses the unit for personal purposes in excess of a specified period of time during a taxable year. This limi-

tation applies only if the taxpayer's use of the dwelling unit for personal purposes during a taxable year exceeds the greater of fourteen days or ten percent of the number of the days during the year for which the unit is rented. If a taxpayer exceeds these personal use limitations, deductions attributable to the rental activity are limited to the amount by which the gross income derived from the rental activity exceeds the deductions otherwise allowable without regard to such rental activities (*e.g.*, interest and certain taxes).

Family rentals.—The taxpayer generally is deemed to have used a dwelling unit for personal purposes for a day if, for any part of the day, the unit is used for personal purposes by (1) the taxpayer or any other person who owns an interest in the home; (2) the brothers and sisters, spouse, ancestors, or lineal descendants of the taxpayer or other owners; (3) any individual who uses the unit under a reciprocal arrangement (whether or not a rental is charged); or (4) any other individual who uses the dwelling unit during a day unless a fair rental is charged.

The Revenue Act of 1978 amended section 280A to provide that the use of a dwelling unit as a taxpayer's principal residence (within the meaning of section 1034) is not to be treated as personal use in determining whether the limitations of section 280A apply to deductions attributable to a "qualified rental period" which immediately precedes or follows a period of use as the taxpayer's principal residence. Under section 280A, a qualified rental period generally is a period of 12 or more consecutive months during which the unit is rented to a person other than a family member, or held for rental, at a fair rental.

Repairs and maintenance.—Section 280A also provides that the Secretary of the Treasury must prescribe the regulation the circumstances under which use of a dwelling unit for repairs and annual maintenance will not constitute personal use of the unit. Under the proposed regulations published on August 7, 1980, an individual would have to be engaged in repair or maintenance work for a day on a substantially full-time basis, *i.e.*, the lesser of eight hours or two-thirds of the time present on the premises, to qualify the day's use of the unit as use for repairs and maintenance. The proposed regulations would require that all individuals on the premises on a day must be engaged in work on the unit on a substantially full-time basis, to avoid the day being treated as one of personal use. However, the proposed regulations would disregard the presence of individuals, such as small children, who are incapable of working.

Issues

The principal issues are, (1) whether business expenses attributable to the use of a portion of a taxpayer's residence as the principal place of business for a separate, secondary business of the taxpayer should be subject to the general rule of section 280A disallowing deductions for such expenses, (2) whether rental of a taxpayer's principal residence or another dwelling to a family member at a fair rental price should be treated in the same manner as a rental to an unrelated party, and (3) whether regulations should treat a taxpayer as having used a dwelling for personal purposes if the taxpayer spends a normal working day repairing or maintaining the dwelling while other persons, who are capable of working, use the dwelling for personal purposes.

Explanation of the bill

The bill contains three amendments to section 280A and a provision relating to rulings and regulations of the Internal Revenue Service concerning use of a dwelling for maintenance and repair.

Business use of the home

The bill would amend section 280A(c)(1)(A) to provide that the general limitation on deductions in section 280A(a) shall not apply to expenses allocable to the regular and exclusive use of a portion of a taxpayer's residence as a principal place of business for any trade or business of the taxpayer. Thus, a taxpayer could have a distinct principal place of business for each separate trade or business and could deduct expenses attributable to the use of a residence as the principal place of business for one or more such businesses, provided the regular and exclusive use requirements are met.

Family use of residence

Two amendments would treat fair-market rentals to family members in the same way as rentals to unrelated parties, thus allowing deductions for expenses attributable to such rentals. Section 280A(d)(2) would be amended so that the use of a dwelling by a member of the family of either the taxpayer or any other person with an interest in the dwelling would not be considered the personal use of the dwelling by the taxpayer if the dwelling is rented to the family member at a fair rental.

Under section 280A(d)(3), a taxpayer's use of a dwelling as a principal residence is not considered personal use for any period immediately before or after a "qualified rental period." The bill would provide that a "qualified rental period" is a period of 12 or more months (or less than 12 months if the dwelling is sold or exchanged at the end of the period) for which a taxpayer's principal residence is rented or is held or rental at a fair rental, regardless of whether the dwelling is rented to a member of the taxpayer's family.

Repair and maintenance

The bill also would provide that, notwithstanding any ruling, proposed regulation, or regulation to the contrary, a dwelling would not be treated as used for the personal purposes of the taxpayer on a day the taxpayer repairs or maintains the dwelling on a substantially full-time basis because other persons, who are on the premises and who are capable of working, do not work on a substantially full-time basis.

Effective date

The provisions of the bill would apply to taxable years beginning after December 31, 1975, the taxable years to which section 280A applies.

Revenue effect

It is estimated that this bill would reduce budget receipts by $61 million in fiscal year 1981, by $77 million in fiscal year 1982, by $54 million in fiscal year 1983, by $61 million in fiscal year 1984, and by $69 million in fiscal year 1985.

2. S. 239—Senators Durenberger, Percy, Bentsen, Hayakawa, Pell, Tsongas, Hatfield, Heflin, Andrews, Mathias, Specter, Sasser and Ford

Credit for Purchase of Commuter Highway Vehicles Exclusion from Income of Alternative Commuter Transportation, Credit for Ride-Sharing Expenses

Present law

Credit for purchase of commuter highway vehicles

Under present law, an employer is entitled to the regular 10-percent investment credit (but not an energy investment credit) on the purchase of a new "commuter highway vehicle" (sec. 46(c)(6). This is a special rule in that the regular investment credit for qualifying property generally is less than 10 percent for an asset with a useful life of less than 7 years. (Under the general rules, the credit is 3⅓ percent if the useful life is 3 or 4 years and 6⅔ percent if the useful life is 5 or 6 years.) A commuter highway vehicle is defined as a highway vehicle with a useful life of at least 3 years, which seats at least 8 adults (excluding the driver), and which reasonably may be expected to be used for at least 80 percent of its mileage to transport a taxpayer's employees between their homes and places of work on trips during which employees occupy at least one-half of the seating capacity of the vehicle. If less than 80 percent of the mileage use of a commuter highway vehicle meets these requirements during the first 3 years of operation, then an appropriate amount of the credit is recaptured (sec. 47(a)(4)(B)) by redetermining the investment credit under the general rule relating to useful lives. The credit is available for vehicles purchased after November 3, 1978, and placed in service by the taxpayer before January 1, 1986. When an employer uses leased vehicles to provide rides, the regular investment credit for such vehicles is allowed to the owner of the vehicles, rather than to the employer, under the general investment credit rules. The investment credit for a commuter highway vehicle is not allowed to a nonbusiness individual.

Inclusion in gross income of value of employer-provided transportation

Subject to certain conditions, the gross income of an employee does not include the value of transportation in a commuter highway vehicle which is provided by his employer (sec. 124). However, under the general rules of section 61, amounts received by employees as reimbursement for otherwise nondeductible personal expenses must be included in gross income. Similarly, gross income includes amounts recived as compensation for services (sec. 61(a)(1)), and would include amounts received by a driver for rides.

Treatment of taxes on motor fuels

Prior to the enactment of the Revenue Act of 1978 (Pub. L. 95–600), an individual who itemized deductions could deduct State and local (but not Federal) taxes imposed on gasoline, diesel fuel, and other motor fuels not used in business or investment activities. The 1978 Act repealed the itemized deduction for these taxes. Increases in the cost of any motor fuel which results from Presidential action to adjust imports under section 232(b) of the Trade Expansion Act of 1962, as amended,[1] would not result in any deduction for nonbusiness taxpayers since no provision authorizes such a deduction. To the extent that Federal, State or local taxes are imposed on motor fuels used in a taxpayer's trade, business or investment activity, they generally are deductible as ordinary and necessary business expenses or as expenses incurred in a profit seeking activity (secs. 162 and 212). Similarly, import fees imposed by the President under section 232(b) of the Trade Expansion Act of 1962, as amended, to increase the sales price of such a fuel, would be deductible under the same provisions of present law.

Issues

The principal issues raised by the bill are, (1) whether and in what amount a nonbusiness individual should be allowed an income tax credit for the purchase of a vehicle used for ride-sharing; (2) whether an employee's gross income should include the value of commuting between home and work on public transportation, when the employer pays for such trips; (3) whether a commuter highway vehicle should be energy property, eligible for the business energy investment credit in addition to the regular investment credit; (4) whether a leased vehicle should qualify as a commuter highway vehicle and thus be eligible for the full investment credit; (5) whether an employer should be entitled to a new income tax credit for administrative costs of a ride-sharing program provided for employees; and (6) whether an itemized deduction for nonbusiness taxpayers should be allowed for certain taxes imposed on motor fuels which are used in a ride-sharing vehicle.

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[1] Section 232(b) of the Trade Expansion Act of 1962, as amended, authorizes the President to adjust oil imports, but eliminates that authority whenever a Joint Resolution is enacted which disapproves such executive action. Oil import adjustments may take the form of an increase in the price of petroleum and petroleum products.

Explanation of the bill

Title I: Individual Income Tax Credit

Title I of the bill would entitle a nonbusiness individual to a nonrefundable 15-percent income tax credit for the purchase of a new commuter highway vehicle. For this purpose, a highway vehicle would qualify as a commuter highway vehicle if it seats at least 8 adults (excluding the driver), is not used in a trade or business and will be used to at least 50 percent of its seating capacity (excluding the driver) for at least 50 percent of its mileage to transport individuals between their homes (or gathering ponnts) and work. The bill provides that such a vehicle is not considered to be used in a trade or business if the vehicle is not generally available to the public and the taxpayer otherwise would travel from home to work over the same or similar route even if other individuals were not transported to work by the taxpayer.

In the case of a jointly acquired vehicle, the credit would be apportioned among its owners according to their respective shares of its cost. The credit would be recaptured if, during the 3-year period beginning on the date of acquisition of a vehicle, the vehicle is disposed of (except by reason of death) or ceases to be used as a qualified commuter highway vehicle.

Title II: Exclusion of Qualified Transportation Income from Gross Income

Title II of the bill would exclude from an employee's gross income amounts received from the employer for trips between home and work which are made on public transportation. Such trips must be on land or water in a vehicle or vessel which seats at least 8 adults (not including the operator). In addition, the bill would exclude from an employee's gross income any employer-provided services in connection with a "ride-sharing program." A "ride-sharing" program would be any program to assist employees in locating other employees to share transportation between the employees' residences or gathering points and places of employment. Ride-sharing services would include amounts contributed by the employer, compensation paid to any employee who operates or assists in a ride-sharing program, computer services provided by the employer and certain other services.

The bill also would exclude from an individual's gross income compensation received from other individuals for transporting them between their homes and places of work. This latter exclusion would be limited to an individual who owns a motor vehicle which seats fewer than 16 adults, does not make that vehicle generally available to the public and would commute between home and work even if no other persons were being transported.

Title III: Business Energy Investment Credit

Title III of the bill would define a commuter highway vehicle to be energy property and would allow a 10-percent energy investment credit to businesses for such vehicles purchased after December 31, 1980, and placed in service before January 1, 1986. Thus, for a business the energy investment credit and the regular investment credit would total 20 percent of the cost of a vehicle.

In addition, the bill would expand the present law definition of commuter highway vehicle to include such vehicles without regard to whether the riders are the taxpayer's employees. Thus, under the bill, the 10-percent energy investment credit and the 10-percent regular investment credit would be allowed to a business which purchases a vehicle and leases it for use as a commuter highway vehicle to a second entity. The bill specifically provides that if an individual other than the taxpayer is the regular driver of a highway vehicle, the regularly scheduled driver's personal use of the vehicle will not be considered in determining whether 80 percent of the mileage use of the vehicle is used as a commuter highway vehicle.

Title IV: Employer Tax Credit for Qualified Ride-Sharing Programs

Title IV of the bill would allow a new income tax credit to an employer who operates a "qualified ride-sharing program." A qualified program is defined by the bill as a program to assist employees in obtaining qualified transportation between their homes and place of work. Qualified transportation is defined by the bill to mean transportation (1) by a commuter highway vehicle, (2) by scheduled public transportation along regular routes on land or water in a vehicle or vessel which seats at least 8 adults (not including the operator), or (3) by any highway vehicle which seats less than 8 adults and which is used for transporting an average of at least 3 employees between their homes and places of employment for a minimum number of days (the lesser of (a) 176 days during the calendar year in which the taxable year begins, or (b) one-half of the days on which the taxpayer held the vehicle during the calendar year). In addition, a "qualified ride-sharing program" would have to be set forth in a separate written plan (non-discriminatory as to employees who are officers, shareholders, or highly compensated employees) providing for at least one qualified ride-sharing service. Such services would include—

(a) the surveying of employees to determine current commuting patterns and interest in qualified transportation,

(b) the distribution of informational material on the advantages and availability of qualified transportation,

(c) contracting for assistance in establishing, sponsoring, or operating a qualified ride-sharing program,

(d) providing assistance (including computer costs) for employee matching to establish carpools or vanpools,

(e) assessing the impact of qualified ride-sharing programs,

(f) signing or improving parking spaces reserved for qualified transportation vehicles,

(g) adjusting working hours for employees participating in a qualified ride-sharing program,

(h) providing liability insurance for qualified transportation vehicles,

(i) providing emergency or business vehicles for the use of employees (during normal working hours) who commute to work in qualified transportation vehicles, and

(j) such other services as the Secretary, after consultation with the Secretary of Transportation, determines contribute to the effectiveness of the qualified ride-sharing program.

The amount of credit would be equal to the lesser of the employer's cost of operating the ride-sharing program (not including costs incurred for the acquisition and maintenance of vehicles, fuel to operate the vehicles, or mass transportation fares or subsidies) or the amount determined under the formula provided in the bill. The amount determined by formula would be equal to the product of the average number of employees of the employer during the taxable year, multiplied by the appropriate amount from the following table:

If the percentage of employees participating in the program is:	*The amount is:*
0 to 14 percent	$00.00
15 to 19 percent	5.00
20 to 24 percent	7.50
25 to 29 percent	10.00
30 to 34 percent	12.50
35 to 39 percent	15.00
40 to 44 percent	20.00
45 to 49 percent	25.00
50 or more percent	30.00

For example, if 200 persons work at a place where a qualified ride-sharing program is in operation and 50 of these persons (i.e., 25 percent of the work force) participate in the program, then the amount of credit determined by formula is $2,000 (that is, 200 multiplied by $10).

Title V: Gasoline Tax Deduction

Title V of the bill would allow an itemized deduction for "qualified motor fuel taxes." The term qualified motor fuel taxes would be defined to be Federal, State or local taxes imposed on sales of gasoline, diesel fuel, and other motor fuels used as a fuel in a "ride-sharing vehicle." Essentially, a ride-sharing vehicle would be defined as one which is eligible (within the meaning of the bill) for the investment tax credit. The term also would include any highway vehicle which seats less than eight adults (excluding the driver) and which is used for transporting an average of at least three employees between their residences and their place of employment for at least the lesser of (1) 176 days during the calendar year in which the taxable year begins, or (2) one-half of the days on which the taxpayer held the vehicle during the calendar year.

For purposes of this motor fuel tax deduction, fuel price increases attributable to Presidential action taken under section 232(b) of the Trade Expansion Act of 1962, as amended, to increase the sales price of petroleum or petroleum products, would be treated as a Federal tax imposed on the fuel.

The bill anticipates that the Secretary would publish tables for use in computing the amount of the qualified motor fuel tax deduction.

TO BE INSERTED ON PAGE 13 OF PAMPHLET-JCS-4-81

S. 239--Senators Durenberger, Percy, Bentsen, Hayakawa, Pell, Tsongas, Hatfield, Heflin, Andrews, Mathias, Specter, Sasser and Ford

Credit for Purchase of Commuter Highway Vehicles, Exclusion from Income of Alternative Commuter Transportation, Credit for Ride-Sharing Expenses

REVENUE EFFECT

It is estimated that this bill will reduce budget receipts by $47 million in fiscal year 1981, $177 million in fiscal year 1982, $313 million in fiscal year 1983, $470 million in fiscal year 1984 and $690 million in fiscal year 1985.

Effective date

The amendments made by Titles I, II, IV and V of this bill would apply to taxable years which begin after December 31, 1980. The amendments made by Title III of this bill would apply to commuter highway vehicles which are acquired after December 31, 1980.

Revenue effect

The revenue estimate for this bill is not yet available but will be furnished at the time of the hearing.

Prior Congressional consideration

As reported by the Senate Finance Committee and passed by the Senate, H.R. 3919 (the Crude Oil Windfall Profit Tax Act of 1980) would have allowed a full 10-percent regular investment tax credit (but not the energy investment tax credit) for vans which had a useful life of at least 3 years, were used for vanpooling and were owned by parties other than an employer (e.g., by employees or third parties). This provision was not agreed to by the conference.

During its consideration of H.R. 3919, the Senate rejected an amendment which would have reinstated the itemized deduction for nonbusiness State and local gasoline taxes.

S. 452—Senator Boren

Gain on Sale of Stock of Foreign Investment Company

Present law

In general, gain on the sale of stock in a corporation is taxed as capital gain. However, pursuant to amendments made to the Code in 1962, gain on the sale of stock in a foreign corporation may be taxed as ordinary dividend income where the foreign corporation is either a controlled foreign corporation (sec. 1248) or a foreign investment company (sec. 1246).

A controlled foreign corporation, or "CFC", is a foreign corporation that is controlled (more than 50 percent stock ownership) by U.S. persons who each own at least 10 percent of the corporation's stock. In general, if a 10-percent U.S. shareholder recognizes gain on the sale of stock in a CFC, that gain will be taxed as ordinary income to the extent of the U.S. shareholder's pro rata share of the CFC's post–1962 earnings and profits that were accumulated while the shareholder owned the stock (sec. 1248).

Prior to 1962, U.S. taxpayers were able to engage in business outside the United States by organizing a foreign corporation which was not subject to U.S. taxation (sometimes referred to as "deferral") and sell the stock of the corporation or liquidate the corporation at capital gains rates. In contrast, a U.S. corporation operating abroad would be required to pay U.S. tax (reduced by foreign tax credits) on its operating income before the sale or liquidation at capital gains rates. In order to eliminate this potential for converting ordinary income of a foreign subsidiary into capital gains, Congress adopted section 1248 which, as described above, taxes 10-percent U.S. shareholders on their gain on the sale of stock in, or the liquidation of, a CFC as ordinary income to the extent of their pro rata share of the CFC's post-1962 earnings and profits which were accumulated while the shareholder held the stock.

An exception to this ordinary income treatment was provided for CFC's that derived most of their income from less developed countries. Thus, gain on the sale or liquidation of stock in a less developed country corporation ("LDCC") would produce capital gains rather than ordinary income under section 1248. This special capital gains treatment for LDCCs was eliminated in the Tax Reform Act of 1976 for post-1975 earnings of LDCCs.

The 1962 Act also contained similar provisions to deal with problems presented by foreign investment companies. Domestic investment companies are generally not subject to tax if they distribute at least 90 percent of their income (usually ordinary income) to their shareholders each year. These shareholders are then taxed at ordinary rates on this pass-through income. Foreign investment companies, on the other hand, were generally not subject to U.S. taxation prior

to the 1962 Act, so they would accumulate and reinvest their earnings free from U.S. tax. This allowed U.S. shareholders to sell their stock in the foreign investment company at capital gains rates even though the sales price reflected these retained and reinvested tax-free earnings.

In order to eliminate the avoidance opportunities presented under prior law by foreign investment companies, Congress adopted section 1246 which provides that gain from the sale or exchange of stock in a foreign investment company by a U.S. person (not limited to 10 percent ownership) would be treated as ordinary income to the extent of the shareholder's pro rata share of the corporation's post-1962 earnings and profits that were accumulated while the shareholder owned the stock. (A foreign investment company is defined as any foreign corporation which is registered under the Investment Company Act of 1940, or which is engaged in certain investment activities under the Act and is controlled by U.S. persons.) However, provision was made in section 1247 for an election whereby section 1246 would not apply to a foreign investment company that annually distributed 90 percent of its income and conformed to other rules similar to those applicable to domestic investment companies.

The tax provisions of section 1248, regarding CFC's, and the tax provisions of section 1246, regarding foreign investment companies, are generally the same. However, taxation under section 1246 is stricter in several respects. First, it applies to all U.S. persons who are shareholders in the corporation, not just to 10 percent U.S. shareholders. Second, no exception was provided under section 1246 for LDCC stock as was the case under section 1248 for earnings derived prior to 1976. Finally, section 1246 applies to all post–1962 earnings of a foreign corporation even if the corporation was a foreign investment company for only one day, whereas section 1248 only applies to the post–1962 earnings of a foreign corporation for those periods that it was a CFC. Thus, for example, if, in 1980, a U.S. shareholder sold stock in a foreign corporation which was organized in 1963 and which engaged in activities that made it a foreign investment company for part of one year, say, 1970, the sale would be taxed under section 1246 as though it were a foreign investment company for the entire 17 years rather than just the one year. This result would obtain even though the foreign corporation was not a CFC for the other 16 years or, even if it were a CFC for those years, its income was not subject to section 1248 (e.g., it was an LDCC for those years), so that the U.S. shareholder's gain on the sale of the stock would have otherwise been capital gains income.

Issue

The issue is whether gain from the sale of stock in a foreign corporation attributable to earnings and profits from the period before the corporation became a foreign investment company should be treated as ordinary income.

Explanation of the bill

The bill would provide that gain on the sale of a foreign corporation's stock will not be taxed under section 1246 with respect to earnings and profits of the corporation attributable to years before the corporation became a foreign investment company. This change would

prevent gain attributable to active business operations from being taxed under the foreign investment company provisions if the corporation subsequently becomes a foreign investment company. Thus, under the previous example, the gain from the sale of the corporation's stock which is attributable to years prior to 1970 would not be treated as ordinary income under section 1246. That gain would be taxed based upon the foreign corporation's status for those earlier years without regard to its subsequent qualification as a foreign investment company. Thus, if the corporation were not a CFC for the earlier years, or if it were a CFC, but it was exempt from the application of section 1248 because, for example, it was an LDCC for those years, the gain might be taxed at capital gains rates if it otherwise qualified. However, gain attributable to 1970 and all later years would be subject to the provisions of section 1246.

Effective date

The bill would apply to sales or exchanges after the date of enactment of the bill in taxable years ending after that date.

Revenue effect

It is estimated that this bill would reduce budget receipts by $5 million in fiscal year 1981 and by less than $1 million annually in later years.

SENATOR DOLE OPENING STATEMENT
HEARING ON MISCELLANEOUS TAX BILLS
FEBRUARY 23, 1981

MR. CHAIRMAN --

TODAY WE HAVE AN OPPORTUNITY TO HEAR THE VIEWS OF MEMBERS OF THE PUBLIC ON THREE BILLS WHICH COULD BE OF SUBSTANTIAL INTEREST TO MANY OF OUR TAXPAYERS.

THE FIRST BILL ON WHICH WE WILL HEAR TESTIMONY IS S. 239 WHICH ADDRESSES AN IMPORTANT ENERGY CONSERVATION MEASURE. CURRENT ESTIMATES ARE THAT URBAN AND SUBURBAN COMMUTING BY PRIVATE AUTOMOBILE ACCOUNTS FOR ABOUT 33% OF THE TOTAL GASOLINE USED BY AUTOMOBILES IN THIS COUNTRY. MOREOVER, SINCE 1973 THIS USAGE HAS SHOWN RELATIVELY LESS EFFECTIVE CONSERVATION THAN MANY OTHER ENERGY AREAS. PERHAPS IN PART BECAUSE PUBLIC TRANSPORTATION OFFERS ONLY CERTAIN COMMUNITIES AN ALTERNATIVE TO AUTOMOBILE COMMUTING, INDIVIDUAL USE OF AUTOMOBILES FOR COMMUTING, EVEN OVER RELATIVELY LONG DISTANCES, REMAINS HIGH. S. 239 OFFERS A BROAD RANGE OF TAX INCENTIVES TO SPUR WIDESPREAD VAN POOLING AND SO REDUCE SUCH USE OF GASOLINE BY COMMUTERS. WE LOOK FORWARD TO HEARING FROM OUR WITNESSES ON THIS IMPORTANT TOPIC.

DRAWING THE LINE BETWEEN BUSINESS AND PERSONAL EXPENSES HAS BEEN ONE OF THE FUNDAMENTAL TASKS OF THE INDIVIDUAL INCOME TAX. PERHAPS THE HOTTEST CONFLICT TODAY IN THE PROPER DIVISION OF PERSONAL EXPENSES AND BUSINESS EXPENSES IS IN THE AREA OF BUSINESS USE OF THE HOME, A TOPIC ADDRESSED BY THE SECOND BILL, S. 31. IN 1976 WE RECOGNIZED THE MEASURE OF THIS PROBLEM BY ENACTING SECTION 280A, A NEW PROVISION DESIGNED TO LIMIT ABUSE OF CERTAIN BUSINESS DEDUCTIONS RELATED TO THE USE OF A HOME FOR BUSINESS PURPOSES. THE EXPERIENCE

OF TAXPAYERS SINCE 1976 WITH THAT PROVISION—AND THE IRS INTERPRETATION OF THAT PROVISION—SUGGESTS THAT IT IS TOO BROAD AND PERHAPS TOO VAGUE. BECAUSE OF OUR CONCERN SENATOR ARMSTRONG AND I INTRODUCED S. 31 TO ELIMINATE SOME POSSIBLE OVEREXTENSIONS OF THE 1976 LEGISLATION. WE COME HERE TODAY TO HEAR TESTIMONY ON THAT BILL WHICH WOULD AMEND CERTAIN PARTICULAR PROVISIONS WHICH HAVE CAUSED SUBSTANTIAL HARDSHIP FOR TAXPAYERS.

WE WILL ALSO HEAR ONE WITNESS ON S. 452 WHICH PRESENTS A SOLUTION TO AN APPARENT ANOMALY IN THE VERY COMPLEX TAX RULES GOVERNING SO-CALLED FOREIGN INVESTMENT COMPANIES.

Senator PACKWOOD. We will start the hearing this morning on S. 239, the Commuter Transportation Energy Efficiency Act, which provides tax incentives for energy conservation.

I might say to those of you interested in this bill that the evidence we have from the GAO and the Office of Technology Assessment is that vanpooling and ridesharing are the most energy-efficient form of transportation we have.

The first witness is Senator Durenberger.

Senator DURENBERGER. Thank you, Mr. Chairman and Senator Byrd. I appreciate your both being here and I appreciate the opportunity to start meetings on time. It is great. I want to thank you for the opportunity to have hearings on this legislation so quickly.

I know of your commitment to energy conservation, having followed your lead on the windfall profit tax and all of the various conservation amendments that you were able to get on that bill. I wish we still were funding as many of them as we were in the beginning.

I also want to thank the many cosponsors of this legislation and the witnesses who today at personal expense are appearing before this subcommittee.

S. 239 is cosponsored by Senators Percy, Bentsen, Andrews, Ford, Hatfield, Hayakawa, Heflin, Mathias, Pell, Sasser, Specter, and Tsongas.

The willingness of the witnesses—each an expert on aspects of commuter transportation touched by this legislation—to come forward on short notice to present their views is much appreciated. I am particularly pleased by the presence here of Congressman Bob Edgar, who has been a consistent advocate of energy conservation and mass transit, and who will be sponsoring similar legislation in the House.

Mr. Chairman, I will limit my comments to one particular theme this morning. I begin by taking note of the President's economic and budget message received by the Congress last week.

I spent part of the weekend reading Dave Stockman's black book. As you know, the budget message is based on the premise that we cannot at this time afford Government programs that do not contribute directly to the national defense or the "social safety net" which protects the incomes of millions of Americans. Programs supporting other social objectives, however noble and beneficial to society, seem generally to be targeted for cuts.

I find that I am in agreement with much that the President and his Budget Director have proposed. But I must say that in the area of energy policy my own course would be somewhat different. I support the President's decontrol decision strongly, but I do not believe that it can be relied upon as a panacea to solve all of our energy problems.

Page after page of the black book argues that this energy resource or that energy technology should compete in the marketplace now that controls have been lifted. That approach would be fine if the energy marketplace were the rational, well-ordered interaction of producers and consumers that we read about in the textbooks, but it just is not.

As we know, the energy marketplace is largely controlled by the 13 member nations of the OPEC cartel. Theirs is the marginal barrel of oil around the world. And it is their political process, not ours, that sets the price.

Twice in the past decade the United States has experienced crude oil supply interruptions as a result of political events in the Middle East. In both cases the price of crude oil more than tripled in a few short weeks, causing deep economic dislocation across America.

President Reagan and his Budget Director have focused on very real problems in the American economy, but the plain fact is that even this determined effort by the President, and even if this action is supported in full by the Congress, cannot be successful without relative stability in the governments and oil production policies of a few Middle East nations.

Neither Dave Stockman nor the family buying a new car knows what the price of gasoline will be next year at this time. Neither the director of Exxon considering investments in synthetic fuels nor the small town banker contemplating a loan for an alcohol plant can accurately judge the profitability of that investment.

Is it wise for us to lurch into the energy future depending on a market where prices fall slightly between periods of rapid and permanent increase? Is it wise to put the promise of alcohol fuels aside until the next embargo, to forgo commercialization of wind technology until the next war, and to abandon the development of coal liquids until the Persian Gulf is blockaded?

S. 239 provides tax subsidies for energy-efficient forms of commuter transportation. I have sponsored it not because I believe that those who share a ride are particularly virtuous and deserve some kind of a reward from their Government. Rather, it is a form of social insurance.

In the past this committee clearly has seen its responsibility to design a sound energy policy for our Nation. We have determined that it is appropriate to use the Internal Revenue Code to provide a gradual transition from today's dependence on imported oil to a future designed for energy efficiency and fueled by renewable resources.

We have urged a policy which anticipates higher prices tomorrow by offering tax incentives for conservation or conversion today. This is a form of social insurance to protect our Nation's security and the security of our people's incomes during the shortfalls and rapid price increases the energy market most certainly will provide.

Mr. Chairman, I believe that if you will study this bill you will find it a thrifty addition to our energy policy. The cost per barrel saved is lower than most incentives already in place.

For instance, title I will cost the Treasury 12 cents for each gallon of gasoline saved. This compares quite favorably with the 40-cents-per-gallon alcohol fuel credit or the 40-percent solar tax credit.

The technology is here today, and maximizing the energy saved per dollar of investment does not require large increments of initial capital.

I want to turn the hearing over to our witnesses who certainly are more knowledgeable than I on the subject. However, before I do, I would ask that my prepared statement and letters in support of S. 239 be received for the record, including a statement from Senator Sasser.

Senator PACKWOOD. The entire statement will be in the record, as well as the entire statements of all witnesses. We encourage abbreviation of the statements.

[The prepared statements of Senators Durenberger and Sasser follow:]

Statement by
Senator Dave Durenberger
on S. 239,
The Commuter Transportation Energy Efficiency Act
before the
Subcommittee on Taxation and Debt Management,
United States Senate Finance Committee
February 23, 1981

Mr. Chairman, I want first to thank you and the members of this Subcommittee for holding prompt hearings on this legislation. I know of your commitment to energy conservation and had the privilege of joining as a cosponsor to your bill in the 96th Congress, S. 1760, which became the vehicle for energy conservation amendments to the Windfall Profits Tax.

I also want to thank the many cosponsors of this legislation and the witnesses who at personal expense are appearing before your Subcommittee this morning. S. 239 is cosponsored by Senators Percy, Bentsen, Andrews, Ford, Hatfield, Hayakawa, Heflin, Mathias, Pell, Sasser, Specter and Tsongas.

The willingness of the witnesses -- each an expert on aspects of commuter transportation touched by this legislation -- to come forward on short notice to present their views is much appreciated. I am especially pleased by the presence of Congressman Bob Edgar, a consistent advocate of energy efficient mass transit, who will be sponsoring similar legislation in the House.

Mr. Chairman, I would begin my substantive comments by taking note of the President's economic and budget message received by the Congress last week. I spent the weekend reading Dave Stockman's "black book." As you know, the budget message is based on the premise that we cannot at this time afford government programs that do not contribute directly to the national defense or the "social safety net" which protects the income of millions of Americans. Programs supporting other social objectives, however noble and beneficial to society, are targeted for cuts. The fairness of this budget proposal is to be judged by the number of Americans directly affected by the cuts.

I find that I am in agreement with much that the President and his Budget Director have proposed. But I must say that in the area of energy policy, my own course would be much different. Although I support the President's decontrol decision, I do not believe that it can be relied upon as a panacea to solve all of our energy problems. Page after page of the "black book" argues that this energy resource or that energy technology should compete in the marketplace now that controls have been lifted. That approach would be fine, if the energy marketplace were the rational, well-ordered interaction of producers and consumers that we read about in the textbooks. But it is not.

As we know, the energy marketplace is largely controlled by the thirteen member nations of the OPEC cartel. Theirs is the marginal barrel of oil around the world. And it is their largely political process that sets the price. Twice in the past decade the United States has experienced crude oil supply interruptions as a result of events in the Middle East. In both cases the price of oil more than tripled in a few short weeks. President Reagan and his Budget Director have focused on very real problems in the American economy. But the plain fact is that even this determined action by the President -- and even if this action is supported in full by the Congress -- cannot be successful without relative stability in the governments and production policies of a few Middle Eastern nations.

Neither Dave Stockman nor the family buying a new car knows what the price of gasoline will be next year at this time. Neither the director of Exxon considering investments in synthetic fuels nor the small town banker contemplating a loan for an alcohol plant can accurately judge the profitability of that investment. Is it wise to lurch into the future depending on a market where prices fall slightly between periods of rapid increase? Is it wise to put the promise of alcohol fuels aside until the next embargo, to forego commercialization of wind technology until the next war, and to abandon the development of coal liquids until the Persian Gulf is blockaded?

Faced with continued dependence on OPEC oil and the threat of supply disruptions and massive price increases, the American public has demanded a national energy policy with energy independence as the primary objective. Three administrations and four Congresses have responded with a variety of proposals.

One-half of our oil supply is used for transportation. One-half of that amount is used in the automobile. It is not surprising, therefore, that many of the policies promised by Presidents or passed by Congress have focused on the automobile and gasoline demand as a primary target to solve the energy crisis.

U.S. Petroleum Demand
1976

Sector	MMBD
Electric Utilities	1.6
Residential & Commercial	3.5
Industrial	3.2
Rail, Air, Water Transport	2.1
Truck	1.9
Automobile	5.2
U.S. Total	17.5

Source: Automobile Transportation System, Offcie of Technology Assessment

Automobiles consume more than three times as much oil as electric utilities and fifty percent more than either space heating in the residential/commercial sector or process uses in industry. One-third of all automobile trips are commuter trips to and from work.

Passenger Car Use

Destination	Percent of Trips
Work-trip	36 %
Family Business	31 %
Education, Civic, Religious	9 %
Social and Recreational	23 %

Source: Federal Highway Administration

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Average Travel Distances

Purpose	Distance in Miles
Work-trip	19.4
Shopping	4.4
Education, Religious	4.7
Family Business	6.5
Medical	8.4
Visiting, Social	12.0
Pleasure	20.0

Source: Federal Highway Administration, Household Travel in the U.S., Report #7, Washington D.C., 1972.

The average commuting distance between home and work and home again is 19.4 miles. 80 million Americans make this trip every day and 52 million make the commuting trip in a single-occupant automobile. These facts demonstrate the scope of the petroleum problem and the role that daily commuting plays in our dependence on uncertain foreign oil.

Mr. Chairman, the transportation conservation policies that have been debated in the Congress since 1973 can be classified into three groups. Some attempt to reduce traffic demand by increasing the price of fuel or restriciting supply. This group includes price decontrol, the gasoline tax or oil import fee and gasoline rationing. A second type of transportation conservation policy focuses on technological innovations. These policies included modifications in automobile design and the development of alternative fuels.

Reducing commuter demand for gasoline through higher prices and the technological fix are the policies most often debated in the past seven years. As we have found again and again, these alternatves are very expensive and necessarily require much government involvement in the marketplace.

There is another type of policy -- modal efficiency -- which has the promise of saving as much or more energy and at a far lesser cost. For commuter transportation modal efficiency includes the carpool, the vanpool, the bus and other forms of mass transit. Today, there are 80 million commuters in America and the vast majority drive to and from work in the single-occupant automoblie. Less than 10 percent take mass transit. Only 20 percent carpool or share a ride.

Principal Means of Transportation Used
for Work-Trips in the U.S.
1975

Means of Transport	Number ('000s)	Percent
All Workers	77,540	100 %
Automobile or Truck	67,869	87.5
Single Occupant	52,294	67.4
Carpool	15,575	20.1
Public Transportation	4,825	6.2
Bus or Streetcar	3,100	4.0
Subway	1,179	1.5
Heavy Rail	405	.5
Taxicabs	141	.2
Bicycle	471	.6
Motorcycle	297	.4
Walk Only	3,778	4.9
Other	299	.4

Source: Journey to Work in the U.S., Bureau of the Census, July 1979.

This pattern of commuter traffic persists despite the fact that vanpools consume one-sixth the energy per passenger mile consumed by the single-occupant car and despite that fact that ridesharing can dramatically reduce the cost of commuting to work.

Statement by Senator Durenberger on S. 239
February 23, 1981
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In 1977 the Congressional Budget Office prepared a study entitled Urban Transportation and Energy. As one might expect, the study determined that substantial energy savings could be realized in the commuter trip by shifting from the single-occupant automobile to other modes in the commuter trip. The surprising result is the very large amount of energy that might be saved. In terms of operating energy only the single-occupant automobile consumes 11,000 btu's per pasenger mile. The most efficient mode, the vanpool, consumes less than one-seventh of this amount -- 1,560 btu's per passenger mile. In terms that are more common, the average vanpool saves its riders 5,000 gallons of gasoline per year. At today's price, that is a savings of $7,500 dollars per year for each vanpool on the road.

Energy Required by Urban Transportation Modes

Mode	BTU's/Passenger Mile
Single-Occupant Auto	11,000
Average Auto (1.4 Persons)	7,860
Carpool	3,670
Vanpool	1,560
Heavy Rail	2,540
Commuter Rail	2,625
Light Rail	3,750
Bus	2,610

Source: Urban Transportation and Energy
Congressional Budget Office

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Price of Commuting Per Person in 1979

Mode	Cost in Cents/Mile
Single-Occupant Auto	48.8 ¢
Rail Transit	36.1 ¢
Two-Occupant Auto	24.4 ¢
Bus	23.1 ¢
Four-Occupant Auto	12.2 ¢
Ten-Occupant Vanpool	5.7 ¢

Source: Pocket Fact Book, 1980, Highway Users Federation

Because ridesharing has such promise for energy conservation and for reducing the cost of the work-trip, I believe that it will be an important part of the future solution to our energy problems. The question is whether we wait for a war or revolution in some far

place to make ridesharing an absolute necessity for most Americans or whether we in the Congress take action now to encourage ridesharing on a voluntary basis to lessen the impact of the coming energy shortfalls?

Title I of this legislation provides a 15% income tax credit for the individual who purchases a van and uses it for a commuter pool over a three-year period. The average cost of a van, today, is $12,000. The 15% credit provides a reduction in taxes and cost to the Treasury of $1,800. Over a three-year period that vanpool will save 15,000 gallons of gasoline. The subsidy for saving amounts to 12¢ per gallon -- a figure that compares very favorably with the 40¢ per gallon subsidy for alcohol fuels or the 40% solar energy tax credit.

Title III provides a similar credit for the business which buys or leases a van for use by its employees in the commuter trip. In this instance, the bill provides for a 10% business energy credit which when added to the existing 10% investment tax credit will bring the total incentive to 20% of the cost of a van. The subsidy is 16¢ per gallon of gasoline saved.

Both Title I and Title III contain mileage limitations that protect the Treasury against credit claims for vans that are not often used in pooling. Current law contains an 80/20 rule specifying that at least 80 percent of the mileage on a qualifying van must be commuter mileage in the pooling mode. Title I provides a 50/50 rule for the van purchased by an individual.

Mr. Chairman, at the time we markup this bill, I will offer an amendment that drops the mileage limitation and applies a 176 day rule instead. This will make the limitation on a qualifying van similar to the limitation for the carpool and will at the same time allow businesses more flexibility in offerring personal use of the van as an incentive to attract drivers for business sponsored pools.

I intend to offer an additional amendment to Title III at the time it is considered by the Full Committee. The bill as drafted removes the word taxpayer from current law, so that a company leasing rather than purchasing a van for use by its employees might also qualify for the credit. I want to make sure that these credits are also available to private, thrid-party ridesharing firms who lease vans directly to individuals. This measure will provide the incentives necessary to organize pools among the employees of small businesses where the number of employees and the dispersion of their residences does not provide sufficient financial advantage to bring the employer into organizing pooling programs.

Title II of this legislation exempts "qualified" transportation benefits provided by an employer from an employee's taxable income. These benefits include subsidies for transit passes, services provided to carpools and vanpools and incentives designed to encourage employees to use ridesharing in the commuter trip. It also excludes payments from riders to drivers in a rideshairng vehicle from the taxable income of the driver. This title has no current cost to the Treasury as IRS is not currently collecting taxes on either transportation benefits or commuter pool payments. It does, however, open up the possibility of substantial transportation programs offerred by employers that promise significant savings to both the business and the worker.

Title IV takes an additonal step in this direction by providing a business tax credit for the administrative costs of operating an employer-sponsored ridesharing program. The unique feature of this title is that the value of the credit increases as the rate of employee participation increases. It is I believe a sound policy and one that anticipates the future of commuter transportation in America.

Mr. Chairman, in the past this Committee has clearly seen its responsibility to design a sound energy policy for our nation. We have determined that it is appropriate to use the Internal Revenue Code to provide a gradual transition from today's dependence on imported oil to a future designed for energy efficiency and fueled by renewable resources. We have determined that a policy which anticpates higher prices tomorrow by offerring incentives for conservation or conversion today is a form of insurance to protect us from the shortfalls and rapid price increases that the energy markets most certainly offer. Mr. Chairman, I beleive that as you study this bill you will find it a thrifty addition to our insurance policy. The technology is here today. The cost per barrel of oil saved is lower than most incentives already in place. I thank you again for the promptness of this hearing and look forward to working with you on this and other legislation that provides security against the uncertainty of the energy marketplace.

Statement of Senator Sasser on S.239, the Commuter Transportation Energy Efficiency Act of 1981

Mr. Chairman, I compliment you on holding hearings today on S.239, the Commuter Transportation Energy Efficiency Act of 1981. The promptness with which these hearings are held indicates your recognition of the important part which ridesharing should play in our national energy policy.

In the State of Tennessee, I am proud that we have three of the nation's finest ridesharing programs. The Knoxville Commuter Pool is an organization locates at the University of Tennessee's Transportation Center and is sponsored in part by the Tennessee Energy Authority and the Urban Mass Transit Administration through a service and fare demonstration grant to the City of Knoxville. Over 30,000 employees have asked the Knoxville Commuter Pool for assistance with ridesharing and at the end of 1980, the program had a computer master file of over 20,000 names.

Nashville's Metropolitan Transit Authority has recently initiated a comprehensive program to encourage ridesharing among employees in the Nashville area. This program has set ambitious goals for itself and will be successful, especially if the Congress passes initiatives which will encourage employees and employers to participate.

The Memphis and Shelby County Office of Planning and Development, in cooperation with the Tennessee Energy Authority, coducts a ridesharing program which has received outstanding support from commuters and their employers. Actual benefits derived from the program are impressive; for instance, for every dollar spent on the Memphis area rideshare program, $13.50 has been saved in commuter dollars alone.

Ridesharing programs are producing significant energy savings, while simultaneously reducing air pollution, traffic congestion, and parking demand. I support S.239, a bill which would provide an added boost for ridesharing programs throughout the country.

Senator PACKWOOD. Before we have any questions, we will take Congressman Edgar.

Senator DURENBERGER. Thank you very much, Mr. Chairman.

[The pamphlet, "Ridesharing: Meeting the Challenges of the '80s," is in the committee files.]

STATEMENT OF HON. ROBERT W. EDGAR, U.S. REPRESENTATIVE FROM THE STATE OF PENNSYLVANIA

Representative EDGAR. Thank you, Mr. Chairman. Thank you for the opportunity to testify this morning.

I appreciate Senator Durenberger's comments. I think he was very articulate about the need for the legislation which he has introduced on the Senate side. I plan to introduce similar legislation shortly on the House side.

I might preface my remarks this morning by indicating that since 1975, when I came to Congress, I have been a strong advocate of vanpooling, carpooling, and ridesharing programs. Even when the word was confusing in the minds of many people I was interested in trying to stimulate this use of energy resource as well as this use of transportation not only in urban settings, but also in rural and suburban communities.

I might add that Congressman Floyd Fithian from Indiana, Congressman Vic Fazio from California, and I share a carpool from the Annandale section of northern Virginia every morning. We are able to use the Shirley Highway express lanes and utilize some of the benefits of carpooling and vanpooling.

In order not to duplicate the testimony given by others, I will limit my remarks to the following areas: The complementary nature of ridesharing and transit and the importance of providing Federal support for ridesharing through this legislation.

Mr. Chairman, I have been an ardent supporter of mass transportation for many years. It is apparent that transit systems are an indispensable part of the urban fabric without which our major cities would suffer severe economic consequences. It is possible that without transit service they could not even exist in their present form. Mass transportation also provides mobility for a large percentage of our urban population which does not have access to an automobile. This includes the elderly, handicapped, young, poor, and unemployed.

Over the years, I have consistently supported assistance programs to rebuild and strengthen our mass transportation services. During this time most Federal assistance for public transportation has gone to support conventional, fixed-route bus and train operations. This certainly was the first priority for Federal involvement since these systems were on the verge of collapse.

However, it is also apparent to anyone who has studied urban trip patterns that these conventional systems can only serve a portion of the trips in urbanized areas of our country. For example, it is estimated that 50 percent of urban area trips have their origin and destination in the suburbs. Also, in many U.S. cities the percentage of the urban area workforce that is employed in the central business district is not large. In Minneapolis, for example, it is on the order of 17 percent.

What these numbers suggest is not that we should decrease the support we make available for conventional systems, but that we should look for ways to encourage alternatives to the single-occupant automobile for those trips which cannot be conveniently or economically served by fixed-route systems.

One of the most obvious alternatives is ridesharing. This approach takes advantage of the huge automobile and highway resource that is already in place. It is relatively easy and inexpensive to implement, and it goes a long way to meeting our national goals of conserving energy and alleviating traffic congestion.

One of the fears that people have about ridesharing is that it will be competitive with mass transit service and will accomplish very little because it will be used by the same people that would normally use the bus or train. I think the experience to date has shown this to be an incorrect assumption.

We have to keep in mind that transportation, like any other good or service, has different forms to meet the varying needs of different segments of the marketplace. Ridesharing meets the needs of employees who live beyond the range of bus and rail routes or who work at suburban employment centers which have no transit service. Even in those areas which have good transit service ridesharing can perform as an effective complement.

In Marin County, Calif., the Golden Gate Bridge Highway and Transportation District operates a system of buses, ferries, private buses, and vanpools. After the vanpool operation was started bus ridership went up, and the demand remains strong for all the services offered. The approach taken in Marin County is simply a recognition of the different needs and desires of commuters.

By offering a variety of services, they not only get a larger percentage of the market but broaden their base of support. The services they provide do not compete with each other but comprise a system that provides alternatives to the real competition, the single-occupant automobile.

Based on this and other experience around the country, I think we can stop worrying about destructive competition between ridesharing and transit. It is important that we encourage a variety of approaches through legislation such as S. 239 to meet the different needs of the traveling public.

But even if one accepts that ridesharing has positive benefits, the same person may question the desirability of encouraging it through tax benefits. In order to see the need for this, we have to consider the magnitude of the problem we are facing and the difficulty in bringing about the desired effect.

Every day about 60 percent of U.S. commuters drive to work alone. They do so not only because they like to travel this way, but because over the years they have been encouraged to do so through various policies that make it difficult to do otherwise. Cheap energy, urban sprawl, free parking, obsolete regulations, support for highway construction, and neglect of mass transportation have pushed people into the single-occupant mode. Conditions have changed, but, unfortunately, habits do not change so easily.

In his book "Diffusion of Innovations," Prof. Everett Rogers of Stanford University describes how changes are spread through society. Taking examples from the fields of agriculture, medicine, and

education, he documents that acceptance time for new ideas and practices is usually measured in decades.

For example, it takes about 15 years for new ideas in education to become commonly accepted. The Department of Agriculture developed the Agricultural Extension Service to disseminate the results of their research because successful innovations are not automatically accepted. It takes time and effort to get people to change.

In his book, Professor Rogers noted that the diffusion process can be hastened by the existence of an economic incentive or the presence of an influential "change agent," a person or organization which encourages people to adopt new ideas.

Given the magnitude of the change we would like to see brought about, and the difficulty in getting people to change habits that have been developed over the years, I feel it is important that the legislation proposed by Senator Durenberger be passed. These tax credits can provide the economic incentives that are needed to hasten the acceptance of ridesharing.

Another aspect of the diffusion process is found in the comprehensive nature of the bill. Support is given to various forms of ridesharing as well as mass transit. The Department of Transportation has found that employers respond more favorably to programs that have a broad scope which can offer benefits to the entire work force. During your consideration of the bill, please keep in mind that the benefits must be comprehensive in order to be effective.

This bill, by itself, will not overcome all barriers to ridesharing and vanpooling. However, it will dovetail with other efforts at the State and local level and by employers and individuals to change the travel patterns of the lone auto driver. The bill will also bring about a more equitable situation in which the cards are not stacked quite as heavily in favor of the solo driver who for years has received free parking as a tax-free benefit.

For the above reasons and in consideration of the other testimony that will be presented today, I urge your positive review of this legislation and its acceptance by the full Senate.

Senator PACKWOOD. Congressman, I have no questions. I might comment that the Treasury has not yet submitted any views. They chose not to testify on the bill before us today.

I don't want to prejudge them. If they are like past Treasury officials, Republican or Democrat, they will oppose all these bills for one of two reasons—either they didn't think them up or they just don't like to use the Tax Code as incentives for any kind of social purposes.

There are some very consistent people like that. I see nothing wrong with using the Tax Code for legitimate social purposes. I have never run across anyone in the Treasury who adopts the philosophy of not using it at all because time and time again they will come up with their own proposals in which they use the Tax Code as an incentive.

Senator EDGAR. That is right.

Senator PACKWOOD. However, at the moment we have no statements from them. They will submit their statements later.

Senator Byrd.

Senator BYRD. Thank you, Mr. Chairman.

To follow up Senator Packwood's statement about using the Tax Code for social purposes, President Reagan in his speech the other night indicated approval of that.

You brought out a very interesting figure. If I understood it correctly, you stated 60 percent of the commuters travel alone. Is that what you said?

Senator EDGAR. That is correct.

Senator BYRD. Is that only those who commute by automobile or does it include all commuters?

Senator EDGAR. I think that includes all commuters.

Senator BYRD. If that is the case, for those who travel by automobile who travel alone that figure would be well above 60 percent.

Senator EDGAR. That is correct.

Senator BYRD. That was a very interesting presentation. Thank you.

Senator PACKWOOD. Senator Durenberger?

Senator DURENBERGER. I have no questions. I appreciate your support, Bob.

Senator EDGAR. I would like to comment on two things.

First, on the ridership question, if you could tinker with the ridership just a small fraction and get two or three people in an automobile, you not only could save a lot of energy but you could also help to cut down on traffic congestion. Statistic after statistic indicates the large number of people that have been put into a pattern of enjoying that solo auto ride.

As the energy dilemma becomes more difficult, and we have more and more traffic congestion, it is going to be imperative that we encourage more and more people to ride together in two-, three- and four-occupancy automobiles as well as vanpools. I think the Senator's bill moves in that direction.

It may be true that the administration does not want to use tax policy for socially acceptable purposes. However, I think it is not very a good idea to use tax policy for socially destructive purposes either, and we do that all the time.

For example, the President announced in his speech that he favored the 10-year accelerated depreciation on new buildings but said nothing about the rehabilitation and reconstruction of existing buildings. What happens if we do not have a balanced approach between new and old structures is that we encourage the chewing up of agricultural areas, and open space at the expense of industrial areas in the older cities. We have to be careful when we start talking about a broad policy of not wanting to use tax policy for social purposes to recognize that many times we put in place tax policies that may hurt cities, may hurt older States, may hurt particular kinds of businesses.

I think the Tax Code is a way to give incentives for people to move in particular directions without much Government bureaucracy. We are suggesting it here in terms of transportation. We have also suggested it over time in the area of homeownership. I think it makes sense, where appropriate, to use the tax policy to nudge people in one direction or the other to do things which are acceptable to the broader society.

[The prepared statement of the Hon. Robert W. Edgar follows:]

TESTIMONY OF

THE HONORABLE ROBERT W. EDGAR

TO

THE UNITED STATES SENATE FINANCE COMMITTEE

ON

SENATE BILL S.239

1

Mr. Chairman, I want to thank you for this opportunity to testify in favor of the proposed legislation. In order not to duplicate the testimony given by others, I will limit my remarks to the following areas; the complementary nature of ridesharing and transit and the importance of providing Federal support for ridesharing through this legislation.

Mr. Chairman, I have been an ardent supporter of mass transportation for many years. It is apparant that transit systems are an indispensable part of the urban fabric without which our major cities would suffer severe economic consequences. It is possible that without transit service they could not even exist in their present form. Mass transportation also provides mobility for a large percentage of our urban population which does not have access to an automobile. This includes the elderly, handicapped, young, poor and unemployed. Over the years, I have consistently supported assistance programs to rebuild and strengthen our mass transportation services. During this time most Federal assistance for public transportation has gone to support conventional, fixed route bus and train operations. This certainly was the first priority for Federal involvement since these systems were on the verge of collapse.

However, it is also apparant to anyone who has studied urban trip patterns that these conventional systems can only serve a portion of the trips in urbanized areas of the country. For example, it is estimated that 50% of urban area trips have their origin and destination in the suburbs. Also, in many U.S. cities, the percentage of the urban area workforce that is employed in the Central Business District is not large. In Minneapolis, for example, it is on the order of 17%.

What these numbers suggest is not that we should decrease the

support we make available for conventional systems, but that we should look for ways to encourage alternatives to the single occupant automobile for those trips which cannot be conveniently or economically served by fixed route systems.

One of the most obvious alternatives is ridesharing. This approach takes advantage of the huge automobile and highway resource that is already in place. It is relatively easy and inexpensive to implement, and it goes a long way to meeting our national goals of conserving energy and alleviating traffic congestion.

One of the fears that people have about ridesharing is that it will be competitive with mass transit service and will accomplish very little because it will be used by the same people that would normally use the bus or train. I think the experience to date has shown this to be an incorrect assumption We have to keep in mind that transportation, like any other good or service has different forms to meet the varying needs of different segments of the marketplace. Ridesharing meets the needs of employees who live beyond the range of bus and rail routes or who work at suburban employment centers which have no transit service. Even in those areas which have good transit service, ridesharing can perform as an effective complement. In Marin County, California, the Golden Gate Bridge, Highway and Transportation District operates a system of buses, ferries, private buses and vanpools. After the vanpool operation was started, bus ridership went up and the demand remains strong for all the services offered. The approach taken in Marin County is simply a recognition of the different needs and desires of commuters. By offering a variety of services, they not only get a larger percentage of the market but broaden their base of support. The services they provide do not compete with each other but comprise

a system that provides alternatives to the real competition, the single occupant automobile.

Based on this and other experience around the country, I think we can stop worrying about destructive competition between ridesharing and transit. It is important that we encourage a variety of approaches through legislation such as S. 239 to meet the different needs of the traveling public.

But even if one accepts that ridesharing has positive benefits, the same person may question the desirability of encouraging it through tax benefits. In order to see the need for this, we have to consider the magnitude of the problem we are facing and the difficulty in bringing about the desired effect.

Every day about 60% of U.S. commuters drive to work alone. They do so, not only because they like to travel this way, but because, over the years, they have been encouraged to do so through various policies that make it difficult to do otherwise. Cheap energy, urban sprawl, free parking, obsolete regulations, support for highway construction and neglect of mass transportation have pushed people into the single occupant mode. Conditions have changed, but, unfortunately, habits do not change so easily.

In his book Diffusion of Innovations, Professor Everett Rogers of Stanford University describes how changes are spread through society. Taking examples from the fields of agriculture, medicine and education, he documents that acceptance time for new ideas and practices is usually measured in decades. For example, it takes about 15 years for new ideas in education to become commonly accepted. The Department of Agriculture developed the Agricultural Extension Service to disseminate the results of their research because successful innovations are not automatically accepted. It takes time and effort to get people to change. In his book, Professor Rogers noted that the diffusion process can be hastened by the existence of an economic

incentive or the presence of an influential "change agent", a person or organization which encourages people to adopt new ideas.

Given the magnitude of the change we would like to see brought about, and the difficulty in getting people to change habits that have been developed over the years, I feel it is important that the legislation proposed by Senator Durenberger be passed. These tax credits can provide the economic incentive that is needed to hasten the acceptance of ridesharing.

Another aspect of the diffusion process is found in the comprehansive nature of the bill. Support is given to various forms of ridesharing as well as mass transit. The Department of Transportation has found that employers respond more favorably to programs that have a broad scope which can offer benefits to the entire workforce. During your consideration of bill, please keep in mind that the benefits must be comprehensive in order to be effective.

This bill, by itself, will not overcome all the barriers to ridesharing. However, it will dovetail with other efforts at the state and local level and by employers and individuals to change the travel patterns of the lone auto driver. The bill will also bring about a more equitable situation in which the cards are not stacked quite as heavily in favor of the solo driver who, for years, has received free parking as a tax free benefit.

For the above reasons and in consideration of the other testimony that has been presented today, I urge your positive review of this legislation and its acceptance by the full Senate.

Senator PACKWOOD. Congressman, thank you very much for coming over.

We now have a panel consisting of Roy Coughlin, the Honorable Robert Duncan, Edward Lyle, John Oehlenschlager, and Clarence Shallbetter.

We will put all of your complete statements in the record. We encourage you to hold your oral presentations to 5 minutes. We will hear everybody's statements first and ask questions afterwards.

Mr. Coughlin is not here at the moment. Therefore, we will start with Bob Duncan.

STATEMENT OF ROBERT DUNCAN, TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT (PORTLAND, OREG., TRANSIT AGENCY)

Mr. DUNCAN. Mr. Chairman and members of the panel, I submit a slightly longer statement and will try to summarize our remarks.

I am speaking on behalf of the Tri-County Metropolitan Transportation District in Oregon, the largest transit district in Oregon operating in the Portland-Vancouver metropolitan area.

The Tri-Met board strongly supports S. 239 and will be forwarding a formal resolution for entry into the hearing record. They do so because of the success they have enjoyed in promoting carpooling, vanpooling, and buspooling at a comparatively small cost to the taxpayer.

In the Portland area today over 52,000 people share rides or carpool. Tri-Met spends approximately $262,000 per year in promoting these pools by offering matching services, aiding and encouraging employers to set up pools, and supporting buspools where practical.

This figures out to be about $2.18 in tax money per carpooler per year as against approximately $1 per passenger per day cost to the Federal and local taxpayer for a ride on the Portland bus system. That is in addition to the fare.

Getting people to work has not traditionally been a responsibility of the business community. The employee has had to get to the workplace on his own. The private automobile has heretofore been a simple and very convenient way of answering that need. Tri-Met believes that changing the tax structure so as to encourage additional participation in pooling is a cost-effective way to induce both individuals and industry to sponsor and promote the system.

It is true that S. 239 will have an impact on tax income. It is a tax expenditure, if you will, but it is a far less expensive way to do it and encourages private solutions to the transportation problem. In Portland it is the cheapest way to get the single passenger car off the road, reduce pollution, minimize parking problems, extend the life of the highway, and generally increase the efficiency of the transportation system.

I share the disappointment of many that mass transit has not been more of a success than it has been in view of the large amounts of public money invested in it. There have been some bright spots, however. In any event, I believe that the mass transit system carries such a substantial margin of commuters that it

must be sustained and that the system itself would collapse without it.

I believe that we must constantly search for innovative, less expensive, and more efficient ways to get people to their work and that the Federal Government will have to continue to participate in this effort. Transportation both of goods and people, as everyone knows, is the key factor to a healthy economy.

Tri-Met urges your committee to support S. 239, to watch this experiment, to review it periodically to make sure that it succeeds, and to make any test period long enough for a fair trial and long enough to enable the necessary equipment to be fully amortized.

I doubt if you will hear anybody today who is against carpooling, vanpooling, or buspooling on principle. We have tried to show you what has happened in Portland with a minimum investment. You might say, "If you've done so well, why do you need more?" It is because we think that the surface has barely been scratched; the potential is much greater.

I have only a couple comments with respect to the bill. The record should show that I was looking at S. 330 introduced last year. I would suggest that in title IV the tax credit which you are providing to corporations is so miniscule that I doubt if it will be much of an incentive. I think it goes to a maximum of $30, $40, or $50 per year if you get 50 percent of your employees participating. That is unrealistic.

The last caveat that I would urge would be to look at the last title, the highway tax credit that you are giving. I am not sure that is necessary if the others are adjusted.

I would ask you to look at what is happening to our highway trust fund. As a former member of the Appropriations Committee, it worries me. I saw what we did when we gave a tax exemption for gasohol. If this program is going to work, you have to have some highways to run them on.

Therefore, I would suggest that the committee look at that gas tax exemption before you get too far.

Senator PACKWOOD. The administration is toying with a 2-cent increase in the gas tax.

Mr. DUNCAN. I have been encouraging them to toy with that idea and to implement it, Senator.

Senator PACKWOOD. I might say, Bob, that to the best of my knowledge there is no known opposition to this bill with the caveat that Treasury probably will oppose it. However, I have come to expect that.

Mr. DUNCAN. That is a budgetary question. Again, I didn't like off-budget expenses.

There is no reason you cannot adjust the budgeting process so you know exactly what you are doing, how much it is costing you, whether it is an affirmative appropriation or whether it is a negative tax credit.

Senator PACKWOOD. Thank you.

Has Mr. Coughlin arrived?

[No response.]

Senator PACKWOOD. He has not arrived yet. Therefore, we will take Mr. Lyle.

STATEMENT OF EDWARD LYLE, COUNSEL, ALLIANCE TO SAVE ENERGY

Mr. LYLE. Thank you, Mr. Chairman.

I am counsel to the Alliance to Save Energy. I am testifying today as substitute for Robert Rauch, our general counsel, who has been called away on a personal matter.

The Alliance is a national, nonprofit organization comprised of representatives of the business, labor, government, environmental, and community sectors. I am happy to say that the chairman of our organization, Senator Charles Percy, is one of the cosponsors of S. 239.

We are happy to have the opportunity to testify on that bill today. I would request that the written statement which Mr. Rauch prepared be entered into the record of this proceeding.

Senator PACKWOOD. It will be included following your oral testimony. We would encourage you to abbreviate it, and we are asking all our witnesses to hold themselves to 5 minutes.

Mr. LYLE. I would like to talk in the time allotted to me about a study which the Alliance commissioned Cambridge Reports, Inc., to do concerning popular attitudes toward energy conservation in general and vanpooling, one form of ridesharing, in particular.

The study was done in July and August of 1980. It consisted of interviews, in-home interviews of 1,500 adults throughout the United States.

Of those interviewed, 53 percent said they were employed, and it was in this universe, the small universe of 53 percent, that the survey went on with regard to vanpooling.

These 53 percent were then asked how many drive to work alone. It was found that 66 percent of this smaller universe did drive to work alone each day.

They then were asked whether they would be interested in being a member of a vanpooling arrangement. Of this universe of people employed, 44 percent said yes, they would be interested in that. Parenthetically, more Republicans than Democrats said they would be interested, but the result was statistically insignificant.

The survey then concentrated on those who said they would not be interested in vanpooling. I might point out that these include walkers, salesmen who need their cars at work, and others who do not wish to vanpool for reasons other than simply because they like their automobiles.

Of those who said they did not want to vanpool, they were asked whether, if they could save $35 a month in their commuting costs, would they be interested in vanpooling. The total number went up from 44 percent to 55 percent.

They then were asked if they could save $100 a month, which is not unusual for long distance commuters, whether they would be interested in vanpooling. The figure went up from 55 to 60 percent.

The highest rate of affirmative responses came from those whose total commute each day to and from work exceeds 20 miles. This group comprises 27 percent of the commuters in the United States. Yet, they use 68 percent of the gas used in commuting.

Thus, Mr. Chairman, we believe that the potential is there for a considerable increase in the number of vanpools throughout the United States. We estimate a total of about 850,000 vanpools could

be formed and, if they were, they would save this country 450,000 barrels of oil a day, or roughly one-third the production of the Alaskan north slope.

To date, however, there have been very few incentives and little Government encouragement for vanpooling. 3M instituted the first employer vanpooling program in 1973. To date, there are about 8,000 vanpools operated by employers as a service to their employees. As I have indicated, this is about one one-hundredth of the total number of vanpools which might be formed.

Furthermore, there has been no active marketing of vans or vanpooling. There has been no advertisement of them. There has been no attempt to target those who might be interested in vanpooling and reach them in terms of participating in such a pool.

The three groups with which the Alliance has been most concerned in connection with vanpooling are:

One, individuals who get together and want a vanpool to cut down on their commuting costs;

Two, employers who provide a vanpooling service to their employees; and

Three, a group in which we are particularly interested, entrepreneurs who may wish to go into the business of buying and leasing vans or engaging in other types of vanpooling promotion. It is this group which we feel might be the one to go out and actively promote vanpooling.

We support S. 239 because we believe it provides incentives for all three of these groups. There will be a 15-percent individual income tax credit, and to the employers and the entreprenuers there will be an additional 10-percent credit over and above the regular 10-percent credit, a total of 20 percent. On a $10,000 van that would amount to a credit for these employers and entrepreneurs of $2,000. As for the entrepreneurs, they could engage in advertising and the market research to target those long-distance commuters and others who might be especially interested in vanpooling.

The Alliance currently has under way a number of projects, one of which concerns these entrepreneurial arrangements and what it would take to make them widespread throughout the United States. Another concerns multiple van arrangements, so that individuals can transfer from one van to another if they stay late at the office and have to go home after their regular van leaves.

Senator PACKWOOD. Please conclude your statement, and we will put the rest of it in the record.

Mr. LYLE. Fine, sir. We would be happy to make those results available to this committee as we get them.

Thank you for the opportunity to testify.

Senator PACKWOOD. Thank you.

Mr. Oehlenschlager.

STATEMENT OF JOHN OEHLENSCHLAGER, PRESIDENT, VIRGINIA VAN POOLERS ASSOCIATION

Mr. OEHLENSCHLAGER. I thank you for this opportunity to testify this morning in behalf of the Virginia Van Pool Association.

The growth of owner-operator vanpools in Virginia has been increased by a factor of more than 10 in the last 2 years. From an

estimated 30 vanpools in 1978, there are now 400 in just a five-county area in northern Virginia.

With the spiraling cost of commuting by auto and the lack of an affordable public transportation for commuting outside the metropolitan area, vanpools thrive and will continue to multiply.

Heretofore, vanpools have been the domain of private industry with major employers being able to help their employees through company-sponsored programs. Past legislation has been provided for incentives for employers to stimulate these programs.

We are now seeing a different phenomena, the individual who is willing to spend $12,000-plus for a commuter van, fill it with riders, and keep it running for 4 more years with no subsidies or precious few incentives other than a genuine desire to help conserve energy resources.

Some will argue that getting the van paid for in 4 years is adequate payment for the responsibilities one assumes in starting such an operation. Let's look at it in dollars.

The driver of a van being driven 25,000 per year will spend over 2,500 hours behind the wheel during that 4 years. If he is on Shirley Highway, it will be more. He will spend another 100 hours per year maintaining that van, keeping it in adequate condition for his riders. After 4 years his van will be worth about $3,000.

Now are any of you willing to walk out of here today and make a $12,000 commitment for $1.03 per hour return? That is what our vanpoolers are doing now.

If we cannot offer more incentives than that, we are soon going to run out of dedicated individuals. These individuals are not seeking subsidies, nor grandiose Government programs to help. What they want is credit and recognition for what they are doing. Where else better to recognize the accomplishment of these conscientious and dedicated Americans than on April 15?

The members of the Virginia Van Pool Association whole heartedly endorse the effort of Senator Durenberger and urge that Senate bill 239 be adopted.

Thank you.

Mr. PACKWOOD. Mr. Shallbetter.

STATEMENT OF CLARENCE SHALLBETTER, PRESIDENT, RIDESHARING, INC.

Mr. SHALLBETTER. Mr. Chairman and members of the committee, my views on this excellent bill reflect my experience for the past 6 years in ridesharing.

That experience includes work in the past year as president of Ridesharing, Inc., a subsidiary of the St. Paul Cos., as a member last year of the National Ridesharing Task Force, and previously with Public Service Options in beginning efforts directed to providing ridesharing opportunities in multiemployer locations in the Twin Cities area.

Ridesharing has been around for a long time most obviously in the form of carpooling and increasingly with vanpooling. Some also include mass transit in that definition. Typically, various forms of ridesharing are simply alternatives to driving alone to and from work.

Some forms of ridesharing are already significant while others are growing rapidly. In the Twin Cities metropolitan area, for example, 15 to 20 percent of the people currently carpool to work. This is by far the largest form of ridesharing, twice the size of mass transit. Another 7 percent take the bus, mostly to jobs in the two downtowns.

Finally, since 3M introduced it in 1973, vanpooling is emerging as another significant ridesharing service. In the Twin Cities area, for example, 3M currently has 130 vans and another 10 firms provide vanpool service for their emloyees, with one company literally picking up and dropping off all of their employees in their vans every day. Finally, there is a publicly sponsored vanpool program through the Minnesota Department of Transportation, which has almost 100 vans.

Although ridesharing is significant, it still falls far short of the potential contribution it can make to reducing congestion, energy conservation, reducing pollution, increasing labor productivity with on-time arrivals, improved morale, and providing an effective response in the event of a gasoline or transit emergency.

While 25 percent of the people in the Twin Cities area currently ride to work, 75 percent do not. For a variety of reasons, ridesharing will not and cannot serve everyone. However, it is reasonable to conclude that with the support and commitment of employers and with continued increases in the cost of transportation that ridesharing can reach its potential of 35 to 40 percent of the work trips in a few years.

One factor, that accounts for more ridesharing activities than any other is the employer's commitment to this kind of activity by their employees. It is not the matching programs or the pool formation efforts that you might hear a lot about that makes a difference so much as the support and commitment of employers who provide incentives and encouragement for their employees to do this.

This commitment heavily revolves around the efforts of the employers to organize and operate a ridesharing program for their employees. It also includes a number of steps to provide preferential parking; substitute a shuttle or transportation service for employee compensation for the use of their car for business, adjust work hours to facilitate pool formation; possible payroll deduction of van, carpool, and bus fares; regular publicity about ridesharing and recognition of those employees who ride to work.

One of the major features of S. 239 is to further encourage more employers to provide ridesharing services for their employees. Some employers, when approached about the possibility of doing this, have said they would not proceed into a ridesharing program because of the internal costs of developing and operating such a program. Although these costs are not very large, they nevertheless are another expense. This bill directly addresses this issue and says, in fact, that the public will help pay for part of the costs depending on the percentage of employees who are riding to work.

Another major incentive in the bill is one that will encourage individuals and firms to purchase or lease vans. This investment tax credit will stimulate additional vanpooling as it reduces the fixed costs of vehicles and thereby the monthly charges to passengers.

This bill represents a sound approach to increasing ridesharing. It relies on incentives to encourage additional ridesharing and payment only after action has been taken that results in additional ridesharing. Strategically, it tends to rely more heavily on the private sector initiative in response to economic incentives. This contrasts with the appropriation of funds for public agencies with the expectation they can do the job and get the desired results.

I think the bill is an excellent step in the direction of stimulating additional ridesharing, especially of carpooling and vanpooling. They offer the greatest opportunity for riding to work rather than driving alone to the 83 percent of workers in the Twin Cities area, for example, who have jobs outside of the downtowns and for virtually all of those who work at jobs in the smaller towns and rural areas of the State.

I urge your favorable consideration of this bill and its adoption.

Senator PACKWOOD. Thank you very much.

Has Mr. Coughlin arrived yet?

[No response.]

Senator PACKWOOD. If not, I have one question. Mr. Oehlenschlager, you mentioned rather substantial experience with propane. I have not seen that in the statements of the other witnesses. In my experience with other vanpools and carpools around the country they have not yet reached your widespread use of it.

How did your group happen to get into it so heavily when others have not gotten into it yet?

Mr. OEHLENSCHLAGER. We had two or three people who had been using it for 15 or 20 years in other vehicles. When they got involved in vanpooling it looked like a natural to them.

Now, with cost of gas at $1.40 and $1.50 and propane in the 76-cent to 80-cent-a-gallon range, there is a lot of interest in doing it.

Senator PACKWOOD. The A.T. & T. affiliate in Oregon-Washington, Pacific Northwest Bell, is converting all of their service trucks to propane. They have been experimenting with it for a couple years. Apparently they have found the same experience you have in terms of maintenance and in terms of cost. It will take them a number of years, but they hope to convert all of their service trucks to propane.

Senator Byrd.

Senator BYRD. First, I want to welcome my fellow Virginian.

I was interested in the figure you gave regarding the number of carpools in Virginia. I knew the number was in the hundreds, but I did not realize it exceeded 400. You and your associates are to be commended and congratulated on this.

I have no questions.

Senator PACKWOOD. Senator Durenberger.

Senator DURENBERGER. Thank you, Mr. Chairman.

Congressman Duncan, I want to express my particular appreciation to you for appearing on behalf of Tri-Met. I want to clarify one observation you made earlier. It is $30 to $40 per employee rather than $30 to $40 per company. I will assume without asking you a question that might change your opinion.

I noticed particularly in looking at your testimony the close working relationship that Tri-Met has with at least 300 or more businesses. As Clarence pointed out, and I think others have point-

ed out, the No. 1 problem in making this kind of system go is usually the employer, and also the No. 1 opportunity.

If I might, I wonder whether you can tell us a little bit more about the Portland business community and its interaction with Tri-Met.

Also, if you can, what is or what was the catalyst that made this participation so successful?

Mr. DUNCAN. The catalyst was this $265,000 and a very sincere effort on the part of Tri-Met to make it work.

As I inferred during my statement, one can ask the rhetorical question—if you are doing so well, why do you need any more incentives?

While I was still in the Congress and went out to look at this personally, I found they were running into resistance to getting into it with specific employers, particularly large employers with a dispersed set of employees. It is not traditional.

As I say, it has been the responsibility of the worker to get to his job. It is difficult for an employer to assume an extra cost, particularly in these days when costs are so critical to them, unless they are going to be able to see some way it could be cost effective.

You can talk about the advertising, and that is true. You can talk about the expenditures for parking lots, and that is true, too. However, those are intangibles.

If you can give them a little more, if you say, "We will help you here,"—their help so far has been with computer programs, setting up the matching programs for them, and things of this sort. However, I think it is worth an experiment to see if you can get more results with a little bigger effort.

Senator DURENBERGER. Thank you.

Mr. DUNCAN. There is one other thing that occurred to me while sitting here.

Another innovative approach by a good employer and a good public servant in Oregon, one of my competitors in a congressional race at one time, has been to encourage the employers who have multiple places of business to review their employment records and assign those workers to the place of business closest to their homes. That is working pretty well. That is John Pascetini. That is working pretty well.

Senator DURENBERGER. Thank you.

Mr. Lyle, I would like to begin by expressing my appreciation to you and Mr. Rauch and the Alliance, Chuck Percy, and everybody else, for all of the help you have given in putting this legislation together and getting support for it.

We are working together to explore the possibility to make certain amendments, particularly in the area of third-party opportunity for investment in vanpool technology.

I wonder if you would expand a little on the structure of such an amendment and explain why it is important to the success of the legislation.

Mr. LYLE. There are two aspects of that, Senator. One would be the wording aspect of it in the bill itself. We have been doing some work on that. We hope to have some suggestions for one or two minor changes of a technical nature to effectuate the possibility of bringing entrepreneurs in because they are the ones who have the

incentive to go out and market vanpools, to get it off the ground much more than it has been so far.

If we can get the private sector in there and give them a profit motive to expand, then we figure that they will do a very good job at it and go far beyond what has been done to date. That is our intent.

As I indicate, we have a number of studies under way, one of which is designed to see whether a $1,000 incentive, being a hypothetical 10-percent credit on a $10,000 van, would supply the needed incentives to accelerate formation of vanpools.

As I say, when we have that information available, we will be glad to supply it.

Senator DURENBERGER. Another thing that keeps coming up is whether or not some portion of the investment tax credit should be passed on to the riders in some way or just let the market determine which portion of the credit goes to the profit of third-party investors and which portion to riders.

Mr. LYLE. I think what we would favor in that regard is letting the person who invests in the van take the credit and then arrange through contractual means possibly to split that credit with riders thereafter.

Senator DURENBERGER. John, on the issue of a 15-percent investment credit for the individual, we started out with 5 percent a year for 3 years. We ended up putting all 15 percent into the first year because we were told that the Internal Revenue Code dictated that form.

Just looking at it in terms of an incentive, do you think 5 percent over 3 years is preferable to the up-front 15 percent or doesn't it make any difference?

Mr. OEHLENSCHLAGER. The up-front 15 percent probably would be more appropriate. It would catch their attention far faster than 5 percent.

Senator DURENBERGER. Let me ask you an additional question because, as the chairman pointed out, you have more actual experience in this system than others.

There are various service incentives built into the legislation—liability insurance, flexitime, use of company vehicles during working hours for the rider. These are all part of these programs.

In your experience which of these types of incentives would be of most benefit to the rider and most helpful in recruiting additional riders?

Mr. OEHLENSCHLAGER. I think the flexitime issue perhaps is one of the greatest ones, primarily within the Federal Government but now within the private sector.

I just completed a survey for my company which is moving its offices from downtown D.C. out to Tyson's Corner. It is a step function of 1,000 new employees being transferred from one location to another into a very bad traffic location.

Flexitime is a 60-percent issue. They are in favor of it because the present company schedule does not match anything else out there in terms of getting ridesharing going. People are interested in that aspect more than any one other item.

Senator DURENBERGER. With regard to what encourages new vanpools on the I-95 corridor, is it savings in dollars or commuting time in your opinion that is the greater incentive?

Mr. OEHLENSCHLAGER. In that area it is commuting time. A vanpool saves 15 to 25 minutes over a single-occupant or a three-occupant carpool coming up from Dale City, Fredericksberg, and that far away. It is a significant saving in terms of time.

The cost is much, much lower than what buses are available and the flexibility is tremendous. You can form a 15-person carpool in a week's notice and get them on the road. You cannot fill up a bus in 6 months to do that same route and have it pay for itself.

Senator DURENBERGER. Thank you.

Clarence, I just want the chairman to know that I first learned the value of ridesharing in my work with something called Public Service Options, which was a quasi-citizens' organization designed to determine how public service could be delivered more efficiently by using the private sector and the evaluation mechanisms of the private sector—for instance, consumer choice.

Clarence started with that experience and went to a separate entity and created ridesharing. As he pointed out, it was bought out by the St. Paul Cos. Now they, and through them, he provides ridesharing management services to a number of companies in the Twin Cities area.

Clarence, what part of this bill do you think is most important from your particular perspective?

Mr. SHALLBETTER. From my perspective, there are two critical elements in the bill. One is the question of the taxable value of employer efforts directed to encouragement of ridesharing. If these efforts get translated into some taxable dollar value, they become less attractive to the employees. The cloud of potential increases in taxable income has a dampening impact on further efforts at ridesharing.

The second critical element in this bill is the employer tax credit incentive. We have seen far more happen where the employer basically gets behind a multitude of ridesharing efforts, organizes them, begins to communicate them to their employees, and ties them into an energy contingency or transportation contingency plan. The tax credit will stimulate additional employees to undertake programs and to increase the efforts of those who already have ridesharing programs.

When the employer begins to see ridesharing as important for their employees and for themselves, ridesharing will dramatically increase. It will increase most substantially in the form of carpooling, and, to some extent in vanpooling. If there is good, convenient public transit, public transit will also increase.

Senator DURENBERGER. How much additional paperwork would title IV of this act create for the typical business?

Mr. SHALLBETTER. At this point I don't think the employer tax credit would create a lot of additional paperwork. There is one thing employers would have to keep track of: the annual number and percent who ride to work. Otherwise, an employer would be keeping track of their ridesharing program expenses.

Senator DURENBERGER. Do you see any problem in shifting from the 80-20 rule on the business credit and the 50-50 rule on individual credit across the board, to the 176-day rule for vanpooling?

Mr. SHALLBETTER. I think this is an improvement over the existing 80-20 arrangement for the vanpool tax credit. Essentially what we are saying under the 176-day rule is that to the extent the vanpool is used to bring people to and from work 4 days a week on an average you are entitled to the credit. We are not going to keep track of how many personal miles the driver happens to have rolled up or the number of miles it is used for business. The objective should be to insure vans are used for commuter vanpooling, not to check on other uses even to the point of endangering their primary purposes.

Senator DURENBERGER. Thank you very much. I want to thank all the panelists for taking the time to come.

Senator PACKWOOD. Let me echo that. This bill will have my support. I hope we get a favorable review from the Treasury, but we will not know that today.

Thank you for taking the time.

Next we will have hearings on S. 31, a bill introduced by Senator Armstrong and others.

Bill, do you have any opening statement you want to make on the bill before we start to call the witnesses?

Senator ARMSTRONG. I have a very brief opening statement. I will ask that the main body of my statement simply be inserted in the record.

I very much appreciate your having this hearing today because the matter we are considering is a timely one. You will recall at the end of the last session the IRS agreed to withhold the implementation of certain regulations until the middle of this year in order to give us time to legislate and solve the problem.

In brief, Mr. Chairman, I believe that this legislation is necessary because the IRS has misinterpreted the spirit, although possibly not the letter, of a law which Congress enacted in 1976 to stop abuses in the rental of vacation property.

If these regulations are allowed to stand, at least in the form promulgated last year, taxpayers will pay higher taxes if they choose to rent homes to family members rather than to nonfamily members, or if they choose to operate part-time businesses in their homes.

Obviously such a policy is not what Congress had in mind. Therefore, the purpose of the legislation which I have introduced, along with a number of my colleagues, is simply to reverse the principal objections in the regulations which were promulgated earlier this year. First, individuals who rent homes to family members will, under those regulations, almost certainly pay higher taxes than if they rent to nonfamily members.

Second, a homeowner who operates a legitimate part-time business from his home will no longer be able to deduct business-related expenses for that office under the regulations.

Third, property owners who rent their property will be charged with a full day of personal use and, therefore, will be excluded from normal business deductions for that day for every visit to the

property, unless almost all of the time is used in repairing or maintaining the property.

The three objectives of S. 31 on which this hearing is being held today are simply to reverse these presumptions and make clear the intent of Congress.

Mr. Chairman, I have a number of letters explaining, in a fair amount of detail, exactly what the effect of this has been on individual taxpayers. I would ask that those letters, along with my statement in full, be inserted in the record.

Senator PACKWOOD. They will all be included in the record.

[The prepared statements of the preceding panel follow:]

SUMMARY

Statement of Robert B. Duncan on behalf of the Tri-County Metropolitan Transportation District of Oregon

My name is Robert Duncan. I am speaking on behalf of the Tri-County Metropolitan Transportation District of Oregon, the largest transit district in Oregon, operating in the Portland-Vancouver metropolitan area. The TRI-MET Board strongly supports S.239 and will be forwarding a formal Board Resolution for entry into the hearing record. They do so because of the success which they have enjoyed in promoting car pooling, van pooling and bus pooling, at a comparatively small cost to the taxpayer.

In the Portland area today, some 120,000 people share rides or car pool. TRI-MET spends approximately $262,000 per year in promoting car pools and van pools by offering matching services, aiding and encouraging employers to set up car pools and supporting bus pools where practicable. This figures out about $2.18 in tax money per car pooler per year, as against approximately $1.00 cost to the Federal and local taxpayer per ride on the Portland bus system, in addition, of course, to the fare.

Getting people to work has not traditionally been a responsibility of the business community. The employee has had to get to the work place on his own. The private automobile heretofore has been a simple and very convenient way of answering that need. TRI-MET believes that changing the tax structure so as to encourage additional participation in car and van pooling is a cost effective way to induce both individuals and industry to sponsor and promote this system. It is true that S. 239 will have an impact on tax income -- tax expenditures, if you will -- but it is far less expensive and encourages private solutions to the transportation problems. In Portland, it is the cheapest way to get the single passenger car off the road, reduce pollution, minimize parking problems, extend the life of the highway and generally to increase the efficiency of the transportation system.

I have shared the disappointment of many that mass transit has not been more of a success than it has been in view of the large amounts of money invested in public operation. There have been bright spots, however, and in any event, I believe that the mass transit system carries such a substantial margin of commuters that it must be sustained and that the system itself would collapse without it. I believe that we must constantly search for innovative, less expensive and more efficient ways to get people to their work and that the Federal Government will have to continue to participate in this effort. Transportation, both of goods and people, as everyone knows, is a key factor in a healthy economy. TRI-MET urges your committee to support S. 239, to watch this experiment, to review it periodically to make sure that it succeeds and to make the test period long enough for a fair trial and long enough to enable the necessary equipment to be fully amortized.

TESTIMONY OF

ROBERT B. DUNCUN

BEFORE

THE UNITED STATES FINANCE SUBCOMMITTEE

ON

TAXATION AND DEBT MANAGEMENT

REGARDING

S. 239

COMMUTER TRANSPORTATION ENERGY EFFICIENCY ACT OF 1981

February 23, 1981

In the Portland tri-county area the Tri-Met Rideshare Project has been promoting the benefits of ridesharing since 1973-74. Tri-Met is the largest transit district in Oregon. Because the Rideshare Project is sponsored by a transit agency, we are able to promote carpooling, vanpooling, buspools as well as transit. We have found that these modes do not compete, especially when services are offered as a choice and centrally administered.

The Tri-Met Rideshare Project has worked to educate people about the benefits of ridesharing, remove barriers to ridesharing, provide ridesharing incentives and services and offer direct assistance to businesses in establishing employer rideshare programs.

In the Portland area today over 52,000 people carpool in groups of three or more four or more days per week. An additional 68,000 people share rides in groups of two. These people , combined with the 65,000 daily bus riders, total over 185,000 people commuting daily in some means other than the single occupant car.

The group of 52,000 alone saves 24,493 gallons of gas per day (5.5 million gallons a year), keeps 30,261 pounds of pollutants from the air per day (3,480 tons a year) and removes daily vehicle miles travelled in this area by 376,213 miles.

The Tri-Met Rideshare Project has worked with over 375 businesses in the Portland area representing over 150,000 employees. In the past year over 150 people have completed a one-day training program for company rideshare transportation coordinators.

Tri-Met feels that transit and ridesharing are very compatible. Our research indicates that transit usage is proportional to the level of transit in a given area and that where transit levels are lower the incidence of ridesharing increases. For example, the commuter market share of transit trips to downtown Portland is much higher than carpool trips -- but the reverse occurs in suburban locations where the level of transit service is much lower.

No one transportation mode can serve all the transportation needs of any given region. By transit and ridesharing working together the overall transportation efficiency of a region can be improved.

The public investment in ridesharing is low in comparison to other public investments in more capital or labor-intensive transportation services and facilities. The Tri-Met Rideshare Project costs each of the 625,000 Portland commuters an estimated 42¢ per year.

Tri-Met's Rideshare Project feels that the future of ridesharing is very good and that the added incentives proposed in S.239 can only serve to increase ridesharing nationwide.

The legislation is especially consistent with our strategy to promote ridesharing by providing motivation, information and technical assistance to companies and individuals who wish to make a change themselves. This role creates a minimum of bureaucracy and is based on the philosophy of people helping themselves.

The Tri-Met Rideshare Project conducts extensive regional population research each year. Part of this research identifies potential rideshare markets and their attitudes toward various types of incentives.

In the Portland area, on the basis of favorable attitudes and intentions toward carpooling, 24%-29% of non-carpooling market can be considered potential carpoolers. This means that 175,000-225,000 commuters would potentially switch to carpooling if various incentives were offered. The research indicates that this goupd would probably be motivated by a combination of governmental and

employer based economic incentives, including tax deductions, tax credits, and gas or maintenance discounts.

The Tri-Met Board President Gerard Drummond, and the Tri-Met Board strongly support S.239 and will be forwarding a Board Resolution for entry into the hearing minutes.

Several local businesses, individuals and public agencies have expressed an interest in S.239 but were unable to respond formally by the hearing date.

With your permission, Mr. Chairman, we would like to follow-up our testimony with a more detailed summary of local comments by March 10th.

In addition to the economic and environmental impacts of S.239, this bill will take a long overdue and important step on validating a mode of transportation that heretofore has lacked position and recognition of impact within the transportation community.

February 20, 1981

Alliance to Save Energy

1925 K Street, N.W. Suite 507 Washington, D.C. 20006 202/857-0666

STATEMENT OF

ROBERT J. RAUCH, GENERAL COUNSEL,

ALLIANCE TO SAVE ENERGY

BEFORE THE

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

OF THE

SENATE FINANCE COMMITTEE

February 23, 1981

Good Morning. My name is Robert Rauch. I am the General Counsel of the Alliance to Save Energy, a national nonprofit organization composed of representatives of the business community, government, labor and the environmental and consumer movements. With me today is Linda Gallagher, Executive Director of the Alliance. Our organization is chaired by Senator Charles Percy, who you will note is a co-sponsor of S. 239. We appreciate very much the opportunity to testify on the Commuter Transportation Energy Efficiency Act of 1981 and commend the Senate Finance Committee for taking up this legislation at this time.

As you know, Mr. Chairman, the Iran-Iraq war is still raging in the Middle East. Although experts differ as to the impact of the continuing hostilities on world oil supplies, there is little question that the United States remains vulnerable to a complete or partial interruption of its oil imports. Indeed, had not Saudi Arabia stepped up its production to make up for Iranian and Iraqi production lost as a result of the war, the United States would be facing gas lines at this very moment. Furthermore, unless the hostilities wind down soon, the free world's stocks of crude oil and petroleum products will be drawn down to dangerously low levels, thus increasing pressure for the major oil companies to re-enter the spot markets.

In short, Mr. Chairman, we are living on borrowed time. Our current inventories are providing the nation with a false sense of security. Within months, the third major oil crisis may be upon us.

Although the United States reduced its oil imports by almost 25 percent in 1980, we are still importing over six million barrels of oil per day on average. Approximately half of this total is consumed by automobiles. Any serious effort to reduce oil imports, therefore, must focus on reducing gasoline consumption. There are only three basic ways to achieve this goal:

(1) Reduce the number of vehicle miles travelled by either rationing gasoline or imposing taxes designed to reduce consumption.

(2) Improve the efficiency of the current fleet by increasing the average miles per gallon rating of new automobiles.

(3) Use the present fleet of automobiles more efficiently by raising the average occupancy rate for autos or by encouraging other forms of ridesharing, such as vanpools.

The first approach, regardless of its merits is extremely controversial. Just last year, both Houses of Congress rejected a modest ten cent fee on imports by an overwhelming margin. Short of a major crisis it appears highly unlikely that additional taxes or gasoline rationing will be approved in the near future.

The second approach has already been adopted by Congress and has produced significant improvements in new car fuel economy ratings. By 1985, automakers must increase the

fleet average to 27.5 miles per gallon. More restrictive standards are possible. However, it is unlikely that Congress would choose to apply them to autos built prior to 1985 due to massive retooling problems. Furthermore, it will take ten years before the present fleet is replaced by cars meeting the 1985 fuel economy standard. In short, further improvements in fuel economy represent only a long-run solution; there is little room for additional improvement prior to 1985.

This leaves the last option, improving the average occupany rate, as the only viable short-term action available to promote substantial reductions in gasoline usage. Despite its enormous potential, ridesharing has never been given truly serious support by the government. Efforts to date have been limited to public relations campaigns and exhortations by high government officials to carpool during periods of shortage.

Despite this dismal record, the Alliance believes that a serious effort to promote one form of ridesharing, vanpooling, can substantially reduce oil imports. Although the number of vanpools now on the road has grown steadily, the Alliance has conducted studies which suggest that the potential market is 850,000 pools or more. These 850,000 vans could save 450,000 barrels of oil per day. This is about one-third of all the oil we are producing in Alaska.

As the sponsors of S. 239 have recognized, there are unfortunately obstacles to the widespread adoption of

vanpooling and other forms of ridesharing. First, marketing of vanpools has been relatively weak. Leasing companies which make vans available for pooling have essentially waited for customers to come to them. The organizational efforts which have been undertaken have been limited to large corporations and government agencies. Neither of these institutions has had a profit incentive to aggressively promote vanpools. Furthermore, 75 percent of all commuters work for organizations which have too few employees to support company-sponsored vanpools. This segment of the market has been left virtually untouched.

Although marketing efforts have been weak up to this point, a recent survey conducted for the Alliance to Save Energy by Cambridge Reports suggests that the potential market for vanpooling is enormous. The Cambridge Reports survey was conducted between July 28 and August 20, 1980 and included interviews with a cross section of 1500 people, designed to reflect the adult population of the United States.[1/] Sixty three percent of those polled were employed in a job which required regular commuting. Of this group, 44 percent indicated that they would be interested in riding in a vanpool. Further analysis of the positive responses indicated that women, 18 to 25 year olds, 56 to 65 year olds, those who have a high school education, those

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1. See An Analysis of Attitudes Toward Energy Conservation Issues, Report prepared for the Alliance to Save Energy, Cambridge Reports, Inc. (Cambridge, Mass., Oct. 1980).

who have a graduate school education, people who live in the Northeast, Central, and Pacific regions of the country, and those who have incomes either between $10,000 to $30,000 or between $25,000 to $35,000 are more likely than average to be interested in riding in a vanpool.

On a somewhat lighter note, Republicans were slightly more interested in vanpooling than were Democrats, although the margin was not statistically significant.

What is significant, the Cambridge Reports data indicate that the market for vanpooling may be even larger than the 44 percent response outlined above. As a follow up to its initial question, the Cambridge Reports team asked those who had indicated that they were not interested in vanpooling whether certain changes, such as additional financial incentives, would alter their views. Significantly, when those respondents who had initially indicated they were not interested in vanpooling were confronted with different ranges of potential savings, a number of them changed their view.

For example, if riding in a vanpool saved $35 per month, about one in every five respondents who were not interested in vanpooling would change their minds. If the savings were $100 per month, 30 percent of those who would not otherwise be interested in vanpooling indicated they would change their minds.

We believe these figures are significant because they show that with appropriate financial incentives, a substantial

majority of Americans are interested in vanpooling. Even more important, interest is greatest among those long-distance commuters who use most of the gasoline used for commuting purposes. Although those individuals commuting 20 miles or more each day represent only 27 percent of the total commuter population, they use approximately 68 percent of all the gasoline consumed for commuting. Significantly, potential savings for this group are at least $100 per month and in some cases almost $200 per month.

In short, the potential market is enormous. The savings of both oil and money cannot be overlooked. The question is, How can the government get these commuters into vanpools?

It is here that we believe that S. 239 can make a substantial contribution. Probably the single biggest obstacle identified by the Alliance to the greater use of vanpools is the initial effort involved in getting a pool organized. In the language of economists, the "transaction costs" involved in putting a vanpool together are substantial. It is not an easy proposition to organize 12 to 15 people, coordinate their schedules, train and license drivers, and establish a route which is suitable for everyone involved.

Obviously, these transaction costs are reduced if all the members of the vanpool work for a common employer at a common location. It is for this reason that efforts to organize

corporate-sponsored vanpools have been relatively more successful in the past ten years. Nevertheless, even the corporate-sponsored vanpool market is not even close to being saturated.

The point is that by providing additional financial incentives to assist in the organization of a vanpool S. 239 will permit a vastly accelerated vanpooling effort. By providing individuals with a 15 percent tax credit against the purchase of a van for vanpooling purposes and business with a combined credit of 20 percent, the bill would enable potential vanpool "entrepreneurs" (whether corporate or individual) to spend substantially more money "marketing" vanpools to commuters. If a typical van cost $12,000, such entrepreneurs will have between $1,800 (if an individual) and $2,400 (if a business) to spend recruiting individuals to fill each van.

Such incentives would permit leasing companies or corporate employers to undertake extensive marketing efforts -- efforts which simply are not economically feasible at the present time. Rather than simply offering vans for lease, these companies would be in a position to aggressively seek out individuals for new vanpools and actually create a market for their product.

Among the incentives which might be offered by creative entrepreneurs are a free month of vanpooling, social receptions or even dinner parties to help potential vanpoolers become acquainted and thus become more comfortable with their decision to join, and much more extensive publicity and

education efforts than have been possible in the past.

Such incentives would also allow much more market research in order that organizing efforts could be targeted on those long-distance commuters who have potentially the most to gain by joining vanpools. The Alliance has calculated that if just half of the commuters in the long-distance category (those with a roundtrip of over 20 miles per day) could be persuaded to join vanpools, over 450,000 barrels of oil could be saved per day. In short, by allowing a targeted and more selective marketing strategy, these additional financial incentives are likely to produce greater savings than a relatively non-specific marketing campaign.

Despite these potential benefits, there will be those who will ask, Why provide additional financial incentives for vanpools? Some undoubtedly will argue that the rising price of gasoline alone is enough to promote vanpools and other forms of ridesharing.

The answer is that financial incentives for vanpools will allow the nation to more systematically tap a vast source of oil at substantially less cost than new supplies of oil from on- or offshore. As the Committee knows, the tax law already provides very substantial incentives for drilling for gas and oil. Taken together these incentives can frequently return 50 percent or more of an investor's capital in a new oil or gas well.

What we have failed to recognize is that vanpools, like other forms of efficiency investments, offer similar "drilling opportunities" for oil. A successful vanpool is equivalent to an oil well which can deliver 5,000 gallons or more of gasoline per year. Even more important, this new oil can often be obtained at a cost of $10 to $15 per barrel compared to a cost of imported oil of over $40 per barrel.

Given these facts, we should be willing to extend additional financial incentives to those who are willing to "drill for oil" by forming a vanpool. It makes little sense to extend tax incentives to drill for oil from the ground and to exclude efforts to find oil from unconventional sources such as vanpools. Needless to say, each gallon of oil saved by vanpools is just as valuable, if not more valuable, than a gallon of oil produced from a new well. (In reality, probably more valuable because we are saving refined products rather than simply producing crude oil.)

In short, by extending additional tax incentives to vanpools, we will encourage a more efficient allocation of the capital devoted to increasing the nation's energy supply. The Alliance believes that these additional incentives may enable third party investors, using limited partnerships or other financing arrangements, to "invest" in the formation of vanpools. It is not inconceivable that limited partnerships could be formed to purchase and then lease vans to groups of commuters who are not related in

any way to the members of the limited partnership. In this regard, we are especially encouraged by the decision of the sponsors of this legislation to extend the tax credit to businesses which purchase vans even if those vans are not actually used by the employees of the business. By making this change, this will enable third-party investors, such as limited partnerships and leasing companies, to take advantage of the tax credit and thus provide them with the financial incentives necessary to undertake extensive marketing efforts. Such third party investors are especially important if we hope to tap the group representing 75 percent of all commuters who work for employers who are too small to undertake vanpooling efforts on their own.

The Alliance is currently engaged in a demonstration project designed to test this third party investment concept. As the results become available, we will be happy to provide them to the Committee.

In the meantime, we strongly urge the Committee to support S. 239. We feel it represents a major step forward and may be the single most important contribution which the government can make to accelerating efforts to save oil in the transportation sector. As pointed out earlier, saving oil in this sector is absolutely essential if we are to reduce our vulnerability to a cutoff or interruption of oil imports.

The Alliance does have a number of relatively modest suggestions for improving the language currently in the bill. These changes are not intended to change the intent of the legislation, but rather to clarify areas of uncertainty and ensure that the intent of the sponsors is carried out. We would like to request permission to submit these suggestions into the record.

We will be happy to discuss these changes with the Committee either at this time or at a later date.

Once again, we appreciate very much the opportunity to testify on behalf of S. 239 and look forward to working with the Committee in the weeks and months ahead to ensure passage of the bill.

Thank you, and I will be happy to answer any questions you may have.

VIRGINIA VAN POOL ASSOCIATION
vvpa
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The growth of owner-operater van pools in Virginia has increased by a factor of more than ten in the past two years. From an estimated thirty van pools in 1978, there are now over 400 just in a five county area of Northern Virginia. With the spiralling costs of commuting by auto and the lack of affordable public transportation for commuting outside the metropolitan environment, van pools thrive and will continue to multiply.

Here-to-fore van pools have been the domain of private industry with major employers being able to help their employees through company sponsored programs. Past legislation has been provided for incentives for employers to stimulate these programs. We are now seeing a different phenomena, the individual who is willing to spend $12,000.00 + for a commuter van, fill it with riders and keep it running for four or more years with no subsidies, or precious few incentives other than a genuine desire to help conserve energy resources. Some will argue that getting the van paid for in four years is adequate payment for the responsibilities one assumes in starting such an operation. Let us look at it in Dollars! The driver of a van being driven 25,000 miles per year will spend over 2,500 hours behind the wheel during that four years. He will spend

ENERGY EFFICIENCY AWARD
The President's Program for Energy Efficiency

another 100 hours per year maintaining the van, keeping it in adequate condition for his riders. After four years his van will be worth $3,000.00. Now are any of you willing to walk out of here today and make a $12,000.00 commitment for $1.03 per hour return? That is what our van poolers are doing! If we can't offer more incentives than that, we are going to soon run out of dedicated individuals.

These individuals are not seeking subsidies, nor grandiose government programs to help them. What they do want is credit and recognition for what they are doing. Where else better to recognize the accomplishment of the conscientious and dedicated American than on April 15th?

The members of the Virginia Van Pool Association wholeheartedly endorse the efforts of Senator Durenberger, et al and urge that Senate Bill S 239 be adopted.

VIRGINIA VAN POOL ASSOCIATION
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The Virginia Van Pool Association is a non-profit organization of van pool owners and operators in Virginia. The Association was the outgrowth of an informal meeting of about fifteen (15) Prince William County van poolers in March of 1979. The motivation for such a meeting was a response to a very serious decline in transportation services offered by a local, private bus company. With the available number of busses slashed in half and a visible energy crisis, van pooling appeared to be a viable alternative, with new vans appearing almost daily. The number of pools grew from about fifteen (15) in early January 1979 to over two hundred (200) along the I-95 corridor by January, 1981.

By December of 1979 a formal association was formed. Plans were made to eventually become a non-profit corporation. A charter was drawn up and temporary officers were appointed. Liason was established with county, state and federal officials providing information, identifying problems and working for changes in Virginia code which would

reduce or eliminate institutional barriers to van pooling operators. In the spring of 1980, a bill sponsored by Delegate David Brickley of Prince William County was passed and signed into law, becomming effective July 1, 1980. This bill modified the Virginia code to permit twelve (12) and fifteen (15) passenger van pools to operate without cumbersome and unnecessarily restrictive registration.

In the same time frame, Prince William County received a $65,000.00 grant to pursue van pooling as an alternative transportation scheme. A full time county Van Pool Coordinator was hired. Working in conjunction with the VVPA an active public awareness campaign is on-going. $25,000.00 of the grant was to be used in a revolving fund as start-up money for new van pools. The program is currently lending up to $1,000.00 interest free for six (6) months to cover such items as down payments on vans, start up costs, insurance and propane conversions for existing commuter vans.

A serious problem encountered early on by the Association was the lack of consistency between insurance companies and even within a given company. As a result some van operators were able to get coverage by their regular auto insurer for $300.00 to $400.00 per year while the

majority were relegated to Assigned Risk Insurers at $900.00 to $2,000.00 per year. The problem still persists within the insurance industry that such operations are commercial by nature and that commercial rates should apply even though ISO rates shown them as only slightly greater liability risk. After a very long, hard search a special program for Association Members has been established. The insurance program as established, meets or exceeds the requirements of Virginia and is reasonably priced.

The anticipation of another gasoline shortage has prompted a movement by many of the members, especially those whose commute is greater than 80 miles per day, to convert their vehicles to propane. As an alternative fuel, propane appears ideally suited. Consumption appears to be nearly the same as gasoline with the samller engines (318 cubic inches) showing a slight loss in mileage, while larger (350 cubic inches) engines show virtually the same mileage. Present price is $.76 per gallon compared with $1.35 + per gallon for gasoline. The cost of conversion is relatively high ($800.00 to $1,100.00 per vehicle), however the offset in price and the extended engine life, decreased maintenance, and very favorable environmental impact make propane an ever increasing choice. Presently about thirty (30) of the Virginia Van Pool Association

members have converted to propane with several more scheduled in the near future.

Maintenance also has been an important aspect of Van Pool operations. None of the operators can afford a stand-by vehicle in case of breakdown; even as a group, the Association is not able to provide a back-up vehicle. A vigorous individual maintenance program keeps on-the-road failures to a bare minimum, while a very able roving mechanic, with a mobile service van has been able to keep many of the vans on the road with no lost service. Dealer and other service is rather limited because of the service hours and locations with regard to the owner's place of employment. An on-going program to stimulate a more broad maintenance base to include possible dealer and major service on evenings and week-ends is continuing.

The purchase of a new van for commuting represents a major investment for the owner. A 1981 van (15 passenger) typically costs $12,000.00 and financing in these times is difficult. Through dialogue with several local banks and lending institutions, funding sources have been identified which provide 100% financing for commuter vans. Others, through credit unions have provided low interest loans (7%). In particular the efforts of RIGGS NATIONAL BANK of Washington, D.C. are to be commended for their part in establishing a pilot program of 100% financing.

In October 1980 the Virginia Van Pool Association received the Presidential Energy Efficiency Award, presented at the National Ridesharing Conference in San Francisco. The award recognized the Association's efforts in van pooling. The awards were presented on behalf of President Carter by William J. Beckham, Jr., Deputy Secretary of the U.S. Department of Transportation, and Los Angeles Mayor Tom Bradley, Chairman of the President's National Task Force on Ridesharing.

The awards were presented in recognition of the significant efforts on the part of the recipients in promoting carpools, vanpools, driver efficiency training and the use of public transportation.

Continued liason with State legislators has provided a Virginia bill based on the Federal Model Ridesharing Law, which will bring Virginia Law into alignment with federal guidelines regarding commuter operations. It is anticipated that the legislation will become law this year, probably July 1, 1981.

There has been little or no employer sponsored van pool activity in the Northern Virginia area, with American Automobile Association (AAA) of Falls Church, Virginia, being the only known employer program. Although some incent-

ives do exist, there is a need for intensive marketing of van pooling and its benefits and initiatives to private industry. It should be noted that the answer is not a government program with subsidies, but to educate the employers and the general public. Keep the programs in the private sector, but provide appropriate incentives.

The members of the Virginia Van PoolAssociation are very active in providing assistance and information to new operators, potential operators and potential riders. Through these efforts the list of van pools in the Northern Virginia area has grown to over 300. The Virginia Van Pool Association By-Laws, as written, provide for Chapters to be formed in different locations to more adequately address local area problems while maintaining the strength of a central governing body. The organization presently has one Chapter (Fredericksburg Chapter) with over sixty (60) vans. A second Chapter (Leesburg Pike Chapter) is being organized at this time (February, 1981). The Tidewater (Norfolk) area presently has nearly 200 vans which will add significantly to the Association. Possible expansion with Chapters in the Richmond and Charlottesville areas are anticipated.

The Virginia Van Pool Association does not receive public funds for operation. It is supported by its members

ship and advertising by financial and commercial organizations. The Association's actions have been motivated by a genuine desire of it's members to do their share in meeting energy and transportation problems in Virginia. In identifying problems and recommending regional solutions to many of them, the Virginia Van Pool Association has established a reputation as a very credible organization which is not afraid to meet problems head-on. The Virginia Van Pool Association will continue to encourage any activity which is consistent with its By-laws and will reduce vital energy consumption.

With regard to SENATE BILL S-239, the Virginia Van Pool Association fully supports the legislation, especially in those areas providing incentives for individuals who operate commuter vans. The Association's major concern is that any legislation to promote conservation of energy resources must direct benefits to the private sector and individuals who actually do the work and not establish another government program to subsidize or plan for them. The Virginia Van Pool Association wishes to see SENATE BILL S-239 enacted into law.

STATEMENT OF CLARENCE SHALLBETTER, PRESIDENT, RIDESHARING, INC. BEFORE THE U.S. SENATE FINANCE SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

FEBRUARY 23, 1981

Thank you for the opportunity to present my remarks on S 239 - 1981 Ridesharing Act.

My views on this excellent bill reflect my experience over the past 6 year in the area of ridesharing. This experience includes work in the past year as president of Ridesharing, Inc., a subsidiary of the St. Paul Companies, as a member last year of the National Ridesharing Task Force, and previously with Public Service Options in beginning efforts directed to providing ridesharing opportunities in multi-employer locations in the Twin Cities.

Ridesharing has been around for a long time in the form of carpooling, public transit, and in recent years vanpooling. Typically, various forms of ridesharing are simply alternatives to driving alone to and from work.

Some forms of ridesharing are already significant while others are growing rapidly. In the Twin Cities metropolitan area, for example, 15-20% of the people carpool to work. This is the largest form of ridesharing. Another 7% take the bus - mostly to jobs in the two downtowns. Finally, since 3M introducted it in 1973 vanpooling is emerging as another significant ridesharing service. In the Twin Cities for example 3M currently has 150 vans and another 10 firms provide vanpool service for their employees with one company literally picking up and dropping off all of their employees every day. Finally, there is a publicly sponsored vanpool program through the Minnesota Department of Transportation which has almost 100 vans.

Although ridesharing is significant it still falls far short of the potential contribution it can make to reducing congestion, saving energy, reducing pollution, increasing labor productivity with on time arrivals, and

improved morale, and providing an effective response in the event of a gasoline or transit emergency. While possibly 25% of the people currently ride to work 75% do not. For a variety of reasons ridesharing cannot serve everyone. However, it is reasonable to conclude that with the support and commitment of employers and with continued increases in the cost of transportation that ridesharing can reach its potential of 35-40% of the work trips in a few years.

One factor stands above all others in accounting for significant increases in efforts to encourage carpooling and vanpooling. It is not matching programs or pool formation efforts so much as the support and commitment of employers...employers who not only promote ridesharing but provide incentives and encouragment for their employees to do it. This commitment heavily revolves around the efforts of the individual employer to organize and operate a ridesharing program for their employees. It also includes a number of steps to provide preferential parking, adjust work hours to facilitate pool formation, provide for payroll deduction of van, carpool, and bus fares; and provide regular publicity and recognition of those employees who ride to work.

One of the major features of S 239 is to further encourage more employers to provide ridesharing services for their employees. Some employers, when approached about the possibility of doing this have said they would not proceed because of the internal costs of developing and operating such a program. Although these costs are not very large they nevertheless are another expense. This bill directly addresses this issue and says in fact that the public will help pay for part of the costs depending on the percentage of employees who are riding to work.

Another major incentive in the bill is one that will encourage individuals and firms to purchase or lease vans. This investment tax credit will stimulate additional vanpooling as it reduces the fixed costs of vehicles and thereby the monthly charges to passengers.

Apart from the incentives offered, the bill also eliminates one of the barriers to ridesharing in the concern about whether the value of employer provided ridesharing assistance is attributable to the personal income of their employees.

This bill represents a sound approach to increasing ridesharing. It relies upon incentives to encourage additional ridesharing and payment only after action has been taken that results in additional ridesharing. Strategically, it tends to rely more heavily on the private sector in its initiatives in response to economic incentives. This contrasts with the appropriation of funds for public agencies with the expectation they will do the job.

One of the benefits of this bill will be to stimulate a variety of suppliers of ridesharing services from vanpooling to matching and formation efforts, short-term car rental for business trips during the day, and total third party operations of some ridesharing programs.

This bill is an excellent step in the direction of stimulating additional ridesharing especially of carpooling and vanpooling which offer the greatest opportunity for riding to work rather than driving alone to the 83% of workers in the Twin Cities area who have jobs outside of the downtowns and for virtually all of those who work at jobs in the smaller towns and rural areas.

Individual firms can attest to the significant savings from ridesharing. The 3M vanpooling program, for example, has saved the equivalent 1.1 million

gallons of gasoline and 13.7 million vehicle miles during the last 7 years, further eliminating 60 tons air exhaust pollutates that would have otherwise have been emitted. At the same time, the program has reduced employee transportation costs. These results are being realized in many other firms. Ridesharing offers the public a low-cost, practical way to reduce their transportation expenses, to contribute to energy conservation and is a reasonable way of handling any employee transportation emergency in the future.

Senator PACKWOOD. We will start out with Mrs. William LaMay from Arlington, Va.

Mrs. LaMay, we are happy to have you with us.

STATEMENT OF JUANITA LaMAY, ARLINGTON, VA.

Mrs. LAMAY. Mr. Chairman and members of the committee, I am Mrs. Juanita LaMay. I live in Arlington, Va. I am employed at Headquarters, U.S. Marine Corps, as a budget analyst.

I would like to express my sincere appreciation for affording me this opportunity to articulate my position regarding the rental of real property to a relative.

My husband and I are approaching retirement age and over the past few years we have been preparing for that eventuality. We plan to relocate to Arizona. In February 1978 we bought a home in Phoenix, which we rent to our son and his family.

We rent at a fair market value of $350 per month based on the fact that our son was previously renting a comparable house for the same rental fee. This was an arrangement entered into so as to minimize our concern for the property being located some distance from our home in Arlington.

In preparing both my Federal and State tax returns I attempted to utilize the instructions to the best of my ability. The example cited in the instructions for the preparation of schedule E for rental property pertained solely to vacation property. I was not aware of the family rental tax provision as it pertains to other property.

In September 1980, the Internal Revenue Service audited my return for 1978 and I was informed that if I rented to a nonrelative and charged a fair market rent, I would be entitled to normal business expense deductions. However, by renting to my son, business expenses are not deductible and I must add the rental income to gross income for tax considerations. Accordingly, my tax liability was significantly higher than I would have computed.

Additionally, my 1979 return was adjusted to reflect a higher tax liability. The Internal Revenue Service also notified the State of Virginia, and my 1978 State tax liability was adjusted.

As of this date I have not received the adjustment to my 1979 State tax. However, as a result of all of this I have had to pay higher taxes as follows:

My 1978 Federal tax was $1,155 plus $160.57 interest for a total of $1,315.57. My 1978 State tax was $159.57 plus interest of $26.55 for a total of $186.12. My 1979 Federal tax was $1,929.02 plus interest of $187.09 for a total of $2,116.11. This is a grand total of $3,617.80 to date.

This concludes my statement. I would be glad to attempt to answer any questions you may have.

Senator PACKWOOD. Mrs. LaMay, I do not think we could have a better statement. This is exactly what Senator Armstrong's bill is partially intended to correct.

While we can have trade associations testify representing thousands of people, somehow there is something about an individual who testifies and says, "This is unfairly happening to me" which it is. There is no better evidence we could ask from anybody else. There have to be hundreds of thousands of people like you in the same situation.

Mrs. LAMAY. Yes, sir; I agree.

Senator PACKWOOD. I do not have any other questions, but I appreciate this very specific, concrete information.

Mr. Armstrong.

Senator ARMSTRONG. Thank you, Mr. Chairman.

I join the chairman, Mrs. LaMay, in expressing my appreciation for your testimony, and for exactly the reasons he stated. It is so easy for us in the Senate to think in terms of macroeconomics, bar charts, graphs, and millions of people and lose sight of how these laws impact on individuals.

I have two questions I want to ask you.

In your testimony you mentioned that the key issue is the fair market rental of the property to your son. Could you explain exactly what you mean by the term "fair market rental" in this case?

Mrs. LAMAY. I could understand, for example, if I said, "OK, I will rent my house to my son for only $125 a month." That is not a fair market rent.

I have never had this opportunity before. The home we own now we live in and we never rented property to anyone. We are planning to move out there, and seeing the house that he was renting, and knowing that he was paying $350 a month—and, as I stated, the house I bought was very much like the one he was renting—he said, "Mom, if you will buy the house and let me rent it for the same price I am paying now, I can take care of it for you until you come out there."

Therefore, I am assuming that what he was paying was a fair market rent. That is why I charged him that fee.

Senator ARMSTRONG. It was not in any sense a bargain transaction? There was no hint of that?

Mrs. LAMAY. No, sir.

Senator ARMSTRONG. Therefore, the additional liability which you incurred was entirely and solely because you happened to be renting to members of the family.

Mrs. LAMAY. That is correct, sir.

Senator ARMSTRONG. Could I ask just one question? I think this is obvious, but it would be well to get it into the record.

Let's assume the worst. Let's suppose we do not pass this legislation and the regulations are implemented.

Will you continue to rent this property to your son and pay the additional taxes involved?

Mrs. LAMAY. If this bill goes the way it is right now, sir, I will let my son live there rent free and not make him move. I will not impose that upon him and his family.

[The prepared statement of Mrs. Juanita LaMay follows:]

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I AM MRS. JUANITA LAMAY. I LIVE IN ARLINGTON, VA. AND AM EMPLOYED AT HEADQUARTERS, U. S. MARINE CORPS AS A BUDGET ANALYST.

I WOULD LIKE TO EXPRESS MY SINCERE APPRECIATION FOR AFFORDING ME THIS OPPORTUNITY TO ARTICULATE MY POSITION REGARDING THE RENTAL OF REAL PROPERTY TO A RELATIVE.

MY HUSBAND AND I ARE APPROACHING RETIREMENT AGE AND OVER THE PAST FEW YEARS WE HAVE BEEN PREPARING FOR THAT EVENTUALITY. WE PLAN TO RELOCATE TO ARIZONIA. IN FEBRUARY 1978 WE BOUGHT A HOME IN PHOENIX, WHICH WE RENT TO OUR SON AND HIS FAMILY. WE RENT AT A FAIR MARKET VALUE OF $350.00 PER MONTH BASED ON THE FACT THAT OUR SON PREVIOUSLY RENTED A COMPARABLE HOUSE FOR THE SAME RENTAL FEE. THIS ARRANGEMENT WAS ENTERED INTO SO AS TO MINIMIZE OUR CONCERN FOR THE PROPERTY BEING LOCATED SOME DISTANCE FROM OUR HOME IN ARLINGTON.

IN PREPARING BOTH MY FEDERAL AND STATE TAX RETURNS, I ATTEMPTED TO UTILIZE THE INSTRUCTIONS TO THE BEST OF MY ABILITY. THE EXAMPLES CITED IN THE INSTRUCTIONS FOR THE PREPARATION OF SCHEDULE "E" FOR RENTAL PROPERTY PERTAINED SOLELY TO VACATION PROPERTY. I WAS NOT AWARE OF THE "FAMILY RENTAL TAX" PROVISIONS AS IT PERTAINS TO OTHER PROPERTY.

IN SEPTEMBER 1980 THE INTERNAL REVENUE SERVICE AUDITED MY RETURN FOR 1978 AND I WAS INFORMED THAT IF I RENTED TO A NON-RELATIVE AND CHARGED A FAIR MARKET RENT, I WOULD BE ENTITLED TO NORMAL BUSINESS EXPENSES DEDUCTIONS. HOWEVER, BY RENTING TO MY SON, BUSINESS EXPENSES ARE NOT DEDUCTIBLE AND I MUST ADD THE RENTAL INCOME TO GROSS INCOME FOR TAX CONSIDERATIONS. ACCORDINGLY, MY TAX LIABILITY WAS SIGNIFICANTLY HIGHER THAN I HAD COMPUTED.

ADDITIONALLY, MY 1979 RETURN WAS ADJUSTED TO REFLECT A HIGHER TAX LIABILITY. THE INTERNAL REVENUE SERVICE ALSO NOTIFIED THE STATE OF VIRGINIA AND MY 1978 STATE TAX LIABILITY WAS ADJUSTED. AS OF THIS DATE, I HAVE NOT RECEIVED THE ADJUSTMENT TO MY 1979 STATE TAX. AS A RESULT, I HAVE HAD TO PAY HIGHER TAXES AS FOLLOWS:

1978 FEDERAL TAX	$1,155.00 PLUS INTEREST	$160.57 FOR A TOTAL OF $1,315.57
1978 STATE TAX	$159.57 PLUS INTEREST	$26.55 FOR A TOTAL OF $ 186.12
1979 FEDERAL TAX	$1,929.02 PLUS INTEREST	$187.09 FOR A TOTAL OF $2,116.11
A GRAND TOTAL OF		$3,617.80 TODATE.

THIS CONCLUDES MY STATEMENT. I WILL BE GLAD TO ATTEMPT TO ANSWER ANY QUESTIONS YOU MAY HAVE.

Senator ARMSTRONG. Thank you very much. We truly do appreciate your testimony.

Senator PACKWOOD. I echo that sentiment again. Thank you for taking the time.

Next we will have a panel of Gil Thurm, Jared Blum, William Penick, Thomas Bell, and Charles Olson.

Gentlemen, let me encourage you, because you entire statements will be put in the record, to abbreviate your statements. I can assure you both Senator Armstrong and I are well familiar with the problems you are going to talk about and which his bill addresses.

We will begin with Mr. Thurm.

STATEMENT OF GIL THURM, VICE PRESIDENT AND LEGISLATIVE COUNSEL, GOVERNMENT AFFAIRS, NATIONAL ASSOCIATION OF REALTORS

Mr. THURM. Good morning.

Mr. Chairman and members of the committee, my name is Gil Thurm. I appear here on behalf of the National Association of Realtors.

We appreciate the opportunity to testify on Senator Armstrong's bill, S. 31. We are here to express our strong support for that legislation.

We applaud the courage of Mrs. LaMay to come forward with that testimony this morning because we know how difficult it is for a taxpayer to come forward and talk about private tax return matters.

Senators, quick enactment of S. 31 is urgently needed. We strongly support the bill and we appreciate the early hearings that are being held on this issue.

Senator Packwood, we well remember the late night sessions in 1976, and the long debate on the Tax Reform Act of 1976. But never once during the Senate hearings, never once during the Senate floor debates, never once during the Ways and Means hearings or the House floor debate, and never once during the conference committee sessions was this issue of a family rental tax ever discussed.

In fairness to the IRS, a technical reading of Code section 280A would give the impression that there is supposed to be a family rental tax, that there is supposed to be a penalty for renting property to a relative.

Senator PACKWOOD. I can confirm that. Bill Armstrong is one of the strongest opponents of those late night sessions. We never discussed it.

When somebody asked what was Congress' intent, we had no intent. We certainly did not intend to have the IRS write anything.

The issue was never discussed or thought of. You will not find a word in any debate or anything else on that issue.

Mr. THURM. That is exactly right, Senator.

It is for that reason that we urge that S. 31 be quickly passed to provide this technical correction.

There are thousands of taxpayers out there now who have to file tax returns within the next couple months. This issue has now received a lot of notoriety because of the IRS regulations.

Most taxpayers were filing tax returns unmindful of this provision and were taking deductions for such rental property. However, now tax lawyers and accountants across the country are telling their clients, "No matter what deductions you took before, we now realize that Code section 280A says you cannot have these deductions." Therefore, a lot of people are going to have to file their tax returns differently.

However, if the Senate and the House can enact this bill quickly, we can prevent the necessary amended return process and all the disruption that will result. We know there is a heavy tax agenda coming up. We appreciate the fact that there are major issues that have to be debated and discussed, but it is important that this issue be acted on now.

Thank you.

Senator PACKWOOD. Thank you.

Mr. Blum.

STATEMENT OF JARED O. BLUM, CHIEF LEGAL COUNSEL AND DIRECTOR OF GOVERNMENT RELATIONS, DIRECT SELLING ASSOCIATION

Mr. BLUM. Thank you, Mr. Chairman.

I represent the Direct Selling Association. For those of you who are not familiar with who we are and what we do, we are a trade association representing companies that market consumer products through direct sales to individuals, primarily in homes.

DSA is a trade association consisting of 100 firms. The method of distribution is unique. Those individuals who market their products that way are eligible for membership.

The characteristics of the individuals who engage in direct selling are of great significance to the issue of in-home deductions, which S. 31 addresses.

According to a new Harris study, in any given year about 4 million people engage in direct selling in the United States. They live and work in every town and every city. Eighty percent of the direct salespeople are women, many of whom are wives and working mothers. Almost all direct sellers are independent contractors, not employees, of the companies for whom they sell.

Substantial numbers of minorities, the handicapped, and the elderly also participate in direct sales activities because there are virtually no barriers to participate in direct selling activities and because direct salespeople do not need to spend a specific number of hours selling nor work at specific times.

In short, direct salespeople are truly small business people who, especially in today's economy, need the supplemental income they earn through direct selling.

Let me address the specific issue of use of the home as an office for direct sales people. The requirements of section 280(a) of the Internal Revenue Code are such that many of these people cannot deduct that room for exclusive use because of the fact that lower income people just do not have a room set aside to use exclusively for that purpose. However, there are indeed many who can. For those it is a significant part of their ability to compete in the marketplace to be able to utilize that room—for training, for work, just basically setting up their orders, et cetera.

The opportunity to deduct the expense associated with the use of the home, given the relatively small income involved, is quite important. Home offices for direct sales people, irrespective of whether or not direct selling is a primary or secondary source of income, can be an integral part of a business for sales meetings, et cetera.

We at the Direct Selling Association are quite concerned about the position taken by IRS, both through its proposed regulations and prior to the regulations, that an individual cannot have more than one principal place of business, effectively denying an individual who has a secondary source of income from taking that in-home deduction.

The proposed regulation states that a home office in which a taxpayer engages in a business as a self-employed person would rarely qualify as a taxpayer's principal place of business if his or her primary source of income is from services performed in another business on the employer's premises.

I grant, as my friend, Mr. Thurm, indicated, under the existing statute an interpretation may—and I stress may—have been made along the lines IRS has made it. However, quite frankly, in the spirit of the way Congress acted in 1976 we doubt that was the intent of Congress. Indeed, there is a recent Tax Court decision that affirms the opinion of the Direct Selling Association that specifically stated there was no legislative intent to limit a principal place of business exemption to one business.

Not only is the proposed regulation not mandated by statute, but it is not necessary to carry out the intent in enacting the statute. Although Congress clearly intended to restrict severely the deductibility of expenses attributed to the use of the residence in connection with a trade or business, it did not seek to abolish all such deductions—a rather simple course of action.

Congress sought to insure that a taxpayer could not deduct as ordinary and necessary business expenses the ordinarily nondeductible expenses associated with maintaining a home, not to deprive the taxpayer of otherwise legitimate deductions if the taxpayer incurred incremental or additional costs as a result of bona fide business rather than personal use of the home.

Let me conclude, Mr. Chairman.

Congress enacted the storage use deduction set forth in section 280A(c)(2) because it recognized that the exclusive use requirement would preclude most direct sales people from qualifying for deductions under section 280A(c)(1). Congress, however, I stress again, did not prohibit, and the Revenue Service cannot impose by fiat or regulation a requirement that prohibits direct sales people from claiming legitimate business expense deductions under section 280A(c)(1)(A) if they satisfy the exclusive use test.

The Direct Selling Association believes that passage of S. 31 would send a clear message to the IRS to end discriminatory treatment of direct sellers and others who use their homes as offices for secondary or supplemental businesses. It is truly unfortunate—and I am engaging in a little rhetoric here—that the Revenue Service consistently attempts to remove the underpinnings for independent entrepreneurship in this country, be it through its attacks upon the tax status of independent contractors, with which the subcommittee is familiar, or through its misconstruction of congressional intent.

We stress that we need this action on your part very soon to remove the cloud, as Mr. Thurm expressed, under which many taxpayers are operating with respect to this deduction.

Thank you.

Senator PACKWOOD. On occasion, I have to rise to the defense of those who have to write regulations. In some cases they are really stuck with having to write one where there is no congressional intent. However, in this case I cannot conceive that they could have come to the conclusion that this was our intent.

In contrast, 6 or 7 years ago we enacted the 200-mile fishing zone. We must have had 5 years of hearings on the Atlantic coast, the gulf coast, the Pacific coast, and I do not know how many thousands of witnesses. We finally concluded a 200-mile fishing zone where Americans could fish first. It was an effort to keep the foreign fishermen out.

It had not been in effect 6 months before the American fishermen were catching the fish and selling them to the foreign factory ships. The administrative agency had to determine what was Congress intent—did we intend to allow that? I do not know. We never thought about it. I could not conceive that we had 5 years of hearings and nobody ever mentioned this subject.

There you have a situation where a bureaucracy had to make a decision either, yes, you can do it, or, no, you cannot do it. There was not an iota of intent from Congress.

However, in this case I know if we had had any thought at all, it would have been in opposition to all of the regulations that they had set down and which Bill is attempting to rectify in the bill.

Mr. Penick.

STATEMENT OF WILLIAM C. PENICK, MANAGING DIRECTOR—TAX POLICY, ARTHUR ANDERSEN & CO.

Mr. PENICK. Thank you, Mr. Chairman.

It is a pleasure to present my firm's views this morning on proposed amendments to the Internal Revenue Code dealing with vacation homes.

The 1976 tax legislation dealing with vacation homes was another example of a broad attempt by Congress to stop an abuse. The broad thrust of the statutory language plus the normal technical and restrictive approach followed by the IRS in drafting proposed regulations have created the problems addressed by Senate bill 31 and others noted in our written statement.

The intent of the 1976 legislation was clearly to stop abuses where taxpayers were financing the cost of vacation homes, generally in resort areas, through tax deductions other than those that are allowable to all taxpayers—interest and taxes.

As you look at this legislation and other problems that have emerged, you need to keep this in perspective.

The statute adopted in 1976 attempted to close all conceivable potential loopholes or abuse areas, but it clearly caught within its net a number of situations that are not really abuses. Perhaps the most obvious of these is the so-called family rental rule, which is the main subject of this legislation.

We are delighted to support the thrust of Senator Armstrong's, and the other Senators who cosponsored it, amendment under Senate bill 31 that would solve this family rental problem.

In our written statement we identify several other problems where we think legislation should be addressed. The first general area concerns use of a residence by another person other than a family member who has an interest in a dwelling unit.

In recent years with extremely high interest rates and inflated values for residential property, a number of innovative financing techniques have been developed to assist families to acquire homes.

One of these techniques is the so-called shared equity approach under which a pool of investors will agree to assist in financing a home and will join with a prospective homeowner in constructing or purchasing a dwelling. An example is provided in our statement where an investor and a homeowner each acquire a half interest in a residence. The homeowner leases the investor's share with an option to purchase at a later date at a fair value.

The provisions of code section 280A(d)(2)(A) now defines personal use as use of a dwelling for personal purposes by the taxpayer—and this is the important distinction, or by any other person who has an interest in the unit. A literal reading of this section would deny the investor, who in this case has gone into this arrangement purely for a profit motive, the tax advantages of ownership of

rental property. In essence, this denies the prospective homeowner a financing technique that might help him in today's period of high interest rates. Again, we do not think that the vacation home rules were intended to prohibit this sort of arrangement.

In many real estate developments in resort areas—and, as you know, this has become a major industry in this country—so-called time-sharing arrangements have been developed so that the owners of a particular unit can be numerous. In most cases, the owners are not related and it is common for the identity of some or all of them to be completely unknown to a particular unit owner.

Proposed regulations under section 280A in effect provide that each person with an interest in a unit subject to a time-sharing arrangement shall be considered to have a continuing interest in the unit regardless of the status of that interest under local law. If this interpretation of the statute is correct, a unit owner could be penalized for violations of other unit owners over which he has no control whatever and in many cases he probably has no knowledge of such violations.

The determination of the appropriate treatment for a qualified repair or maintenance day, as suggested in Senate bill 31, is reasonable, and we certainly support its adoption. The regulations proposed under section 280A clearly go beyond the intent of Congress and prescribe a test which I think is unreasonable and burdensome.

Finally, in determining the personal use test—either the 14-day or 10-percent rule—the approach adopted by the proposed regulations is very harsh and extreme and is not needed to carry out the intent of Congress. In our statement we outline a situation where a taxpayer arrives at his unit late in the afternoon of one day, spends 12 full days in the unit, leaving early the morning of the next day, and nevertheless finds this stay treated as 14 days.

This interpretation of the statute seems much too harsh and narrow. To impose a more reasonable test, we suggest that either the day of arrival or the day of departure not be counted. There is precedent for this in the capital gains holding period area. I think it would lead us to a more reasonable result in the vacation home area.

Again, we appreciate the chance to appear this morning. I will try to answer any questions you might have.

Thank you.

Mr. PACKWOOD. Mr. Bell.

STATEMENT OF THOMAS D. BELL, JR., EXECUTIVE VICE PRESIDENT, CITIZEN'S CHOICE, INC.

Mr. BELL. Mr. Chairman and Senator Armstrong, it is a pleasure to be here representing Citizen's Choice. For those of you not familiar with Citizen's Choice, it is a grassroots taxpayers' organization with no special interest other than good government. Our membership ranges from the Fortune 100 companies to bus drivers. We have many independent contractors in our membership who are affected by the proposed IRS regulations that will be changed by S. 31.

We are strong supporters of S. 31 for many reasons, but we would like to focus our testimony today in three areas.

One is—and this is a reaction from our membership to a large degree—who is in charge of tax policy. This is a question we consistently are asked and which we have brought to both of your offices in the past. Who is in charge of tax policy? The Internal Revenue Service, an unelected bureaucracy which has responsibility for carrying out the rules and regulations of Congress, or the Congress?

This is a good example and another example of the Internal Revenue Service's attempting to construe or misconstrue the intent of Congress. As has been said here earlier today, obviously Congress had no intention of providing this sort of treatment to property owners who are attempting to rent to their relatives or to independent contractors or productive Americans who might have a second place of employment or a second job in their homes.

Second, we would like to bring the committee's attention to the fact that this legislation is particularly discriminatory against the producing American, the productive, working American, who might be inclined to have a second job or in these economic times needs to have a second job, or who owns rental property for purposes of profit and might subsequently rent that property to a relative at a fair market value.

When so many in the Congress and in the administration are talking about increasing productivity, it would seem unfortunate the Internal Revenue Service through its rulings might try to penalize productive Americans.

Lastly, our feelings here come not only directed toward S. 31 and the proposed rules under section 280, but also to the results of the National Commission on Taxes and the Internal Revenue Service, which is an affiliated organization with Citizen's Choice and whose report will be out on April 7.

We found as we have had hearings throughout the Nation, in Denver and in other places, Senator Armstrong, that the taxpayer generally feels that when he comes before the Internal Revenue Service the Service maintains an attitude of guilt and the taxpayer is forced to prove his innocence.

When we went around the country, the single most often repeated complaint about the Internal Revenue Service was this proof-of-innocence feeling the taxpayers got when they went before the Service.

Once again, I think the Service in the regulations which they are proposing with regard to the intent of Congress in the 1976 Tax Reform Act is showing that they assume that the taxpayer will take advantage of the law; they assume that the taxpayer will try to avoid paying the fair share of tax. I think history has proven—and our membership certainly feels—that the American public has a great history of paying their fair share of taxes and willingly cooperating with the Internal Revenue Service and with the Government as long as they feel that the tax burden is fair.

If our members are representative of working, productive Americans—and we think they are—they continue to be willing to pay their fair share of taxes, although this willingness is declining at a rapid rate as the tax burden becomes more offensive to them.

The outcry of our membership when they heard about the newest scheme of the Internal Revenue Service once again to de-

prive them of an option that had been available to them in the past was simply to say, "You are forcing us into a position to try to avoid tax because the system is so oppressive."

Therefore, we urge the Senate and the committee to move quickly on S. 31 and do all in its power to resolve this issue as quickly as possible.

Thank you very much.

Senator PACKWOOD. Mr. Olson.

STATEMENT OF CHARLES E. OLSON, LEGISLATIVE SPECIALIST, NATIONAL EDUCATION ASSOCIATION

Mr. OLSON. Thank you, Mr. Chairman.

First of all, I want to apologize to the subcommittee. In our haste to deliver the statement on Friday we neglected to include the attachment. I have given copies of the attachment to committee staff and I will give one to the reporter.

I am Charles E. Olson, legislative specialist for the National Education Association. On behalf of our 1.8 million members, I am very happy to have the opportunity to testify before the subcommittee on S. 31.

Teachers, like many other citizens, are in a position where they must, because of economics, have second incomes. We support that section of the bill. I am very happy to see that here.

However, we would like to make a few observations and suggestions to the committee which we feel will make the bill applicable to teachers as well as other taxpayers.

Teachers in every school district in America are concerned that the IRS forbids deduction for a home office even though this office space is used at the direction of or for the convenience of their employer. Many teachers are required to meet parents and students, prepare and evaluate educational activities, and supervise and coordinate extracurricular activities within their homes.

These teachers dedicate a portion of their homes for exclusive and regular use on school business. Most of these activities accomplished in the teacher's residence are performed at the direction or for the convenience of their employer.

Since many buildings are closed shortly after school is dismissed because school systems are concerned about teacher safety as well as fuel consumption, often teachers are required to vacate school rooms at a certain hour, usually about 1 hour after the students leave the building.

It might be useful for the record to illustrate what is required of teachers and why they must use their homes as a principal place of business. As you might expect, I do not view this issue clinically since I taught for 10 years and have used my home for school activities also.

I have a very good friend who teaches English to 160 innercity high school juniors. He is lucky because many of the teachers have 200 or more students. He is a teacher dedicated to helping his students learn to read and write. He teaches five classes each day, each with its own separate preparation since students are ability grouped.

Each pupil is required to write a two-page theme each week plus four or five book reports each semester. This means that in addi-

tion to 25 preparations he has over 320 pages of composition to evaluate each week.

Each teacher is accorded a 50-minute planning period. Most teachers use it productively, as does my friend. However, he spends 3 to 4 hours 5 nights a week working at home because the school building closes at 4:30 p.m. School officials are concerned about fuel costs so the heat is turned off at 4 p.m. Teachers are specifically requested to leave the building by 4:30 p.m. because the school district doesn't want to be responsible for teacher safety after that time.

My friend cannot claim a deduction for the room used exclusively and regularly to conduct his school business even though his activities at home are "for the convenience of his employer."

NEA strongly recommends that S. 31 be amended to add "students and/or their parents" to the list of persons who qualify a taxpayer under section 280A(c)(1)(B) of the Internal Revenue Code. That section states that a deduction is available to taxpayers who use a portion of their home exclusively and regularly to meet "patients, clients" or "customers."

If S. 31 is enacted into law, it will significantly increase the number of taxpayers who qualify for a home office tax deduction. As the law currently stands, teachers probably will have a hard time satisfying the IRS that students and/or their parents fall within the definition of patient, client, or customer as set forth in section 280A(c)(1)(B), even though one may construe students or their parents to be clients of the teacher.

The amendment we propose will allow teachers to be treated equally with doctors, lawyers, health care practitioners, and other business and professional persons.

The issue is one of equity, not preference. Teachers are taxpayers who expect fair and equitable treatment by the Federal tax code. They expect to be able to deduct an office if it is used exclusively and regularly at the direction of or for the convenience of their employers. To exclude teachers by design or oversight will discriminate against one class of American taxpayers. If these changes are made, S. 31 will have NEA's strong and active support.

Thank you.

Senator PACKWOOD. Mr. Olson, let me congratulate you. You bring an issue to this committee that we had not thought about when we passed this legislation; teachers. We are familiar with the Direct Selling Association. They frequently appear before us. However, I, for one, had not thought about teachers. My hunch would be nobody on this committee—and all of us probably have children in public schools and many of us have had conferences with teachers—ever thought about the teachers having to use their homes as an office to carry out the functions for their employer.

Mr. OLSON. That is quite a regular instance of teaching. Teaching is by no means an 8-hour job, as we all know. Many teachers are indeed aggrieved and they feel so.

I could give you letters and let you listen to phone calls from people who call us after they have tried to claim this and the IRS has audited them and they have problems with it.

Senator PACKWOOD. If we were to change the legislation as introduced by Bill Armstrong and the teachers were to work at night

doing direct selling on something, the legislation would accommodate them. However, if they do it to carry out the rest of their regular job in the same office with a typewriter and a file cabinet and a telephone, they could not. That obviously was not our intention.

Mr. OLSON. That is correct.

Senator PACKWOOD. Let me ask Tom Bell of Citizen's Choice a question.

While I have heard of your organization, I was unaware you have 70,000 members. Is that 70,000 dues-paying members?

Mr. BELL. Yes, sir, it is. The organization, as you know, was just started in 1977.

Mr. BELL. It has grown by about 30,000 members in the past 12 months. It appears that we will hit 100,000 members this year. Therefore, we hope you will all be hearing a lot more from us.

Senator PACKWOOD. Do you have classifications of dues or is it one flat rate for whomever is a member?

Mr. BELL. From Bill Marriott, our chairman, to our bus driver friend, everyone pays $20.

Senator PACKWOOD. That is very impressive.

Mr. BELL. Thank you.

Senator PACKWOOD. Mr. Armstrong.

Senator ARMSTRONG. Mr. Bell, may your drive increase.

I am also very familiar with the work you are doing and compliment you on it. I thank you for your statement.

I do not have a question for you, but I want to underscore the observation you made about voluntary compliance. Increasingly I find that the ethic is developing, even among people of basic integrity, people who are honest in all their dealings with other people, that somehow the IRS is different; that it is a game, and therefore people who are scrupulously honest in dealings with everybody else somehow think it is justified to cut a few corners and cheat a little in their relationship with the tax collector.

I share the concern you have expressed. That is a very serious matter. We are fortunate in this country to have such a good record of voluntary compliance over the years.

Mr. BELL. Senator, what we discovered in your home State and others is that it has become very much an adversary relationship between taxpayer and Service, where they do look at it as a competition of sorts. They feel the Internal Revenue Service attempts to take advantage of them every opportunity it has, so they in turn have the right to take advantage of the Service.

It is a bad situation for everyone involved if it continues.

Senator ARMSTRONG. I agree.

Thank you.

Mr. Thurm, I also thank you for your statement. Might I ask for the record if you would elaborate briefly on your comments regarding making the provisions of this bill, S. 31, retroactive to 1976? I think it is important that the record be clear on that.

Mr. THURM. Thank you, Senator.

Code section 280A was enacted in 1976 and the IRS regulations were made retroactive to 1976. It therefore becomes important that S. 31 also be effective as of the date of enactment of code section 280A.

Senator ARMSTRONG. Otherwise, we would have people in limbo from the period between 1976 to whenever this would be enacted?

Mr. THURM. That is exactly right, Senator.

Senator ARMSTRONG. Mr. Penick, you raised an issue which is addressed only in part in this legislation, that is, that the current tax law discourages the joint ownership of residential real estate. Perhaps it is in your written statement, which I have skimmed but have not read in detail although I shall do so, but could you tell us is this a widespread phenomena? Is it an important fraction of the new residential starts or residential ownership?

Mr. PENICK. It is not that widespread up until now, but it is gaining momentum. It is caused by the very high interest rates and the difficulty of young families in particular to acquire ownership of a home.

It is an innovative financing technique, and to me is something that this legislation was not intended to cover at all. I think it is a byproduct, so to speak, that section 280A would have impact on this kind of financing technique.

At this point I do not think it is a great problem, but nevertheless this technique is emerging rather quickly.

Senator ARMSTRONG. I appreciate your drawing the attention of the committee to that.

Mr. Chairman, if I may, I would like to insert in the record some statements on this issue which have been submitted by the United States Savings & Loan League and also from an attorney in California, Mr. Arthur Rinsky, who has written perceptively on this question. I think it would be worth incorporating, particularly inasmuch as it is relevant to Mr. Penick's testimony.

Senator PACKWOOD. Without objection.

[Refer to Mr. Penick's statement (section H) with Arthur Anderson, Inc.]

STATEMENT OF THE UNITED STATES LEAGUE OF SAVINGS ASSOCIATIONS [1]

The United States League of Savings Associations is very much in support of your bill, S. 31, to amend Section 280A of the Internal Revenue Code to prohibit the Treasury Department from unfairly discriminating against property owners who rent dwelling units to a member of their family. We are hopeful your amendment will succeed.

We wish to take this opportunity to suggest a further amendment to 280A which will provide benefits to both new home buyers and elderly homeowners without significant revenue impact to the Treasury.

Affordability of housing is becoming a major issue in this country. At present, there are a number of parties, including the U.S. League, trying to innovate new methods of making home financing affordable for those who wish to purchase their own home. One procedure being developed to solve the affordability problem is to allow the home purchaser to use the equity in his house to help him meet the carrying cost of acquiring a home. If a borrower could make a larger downpayment on his home, then he would need a smaller mortgage; with a smaller mortgage comes smaller monthly payments. The problem is that most people do not have the additional funds to make a larger downpayment. If another person or investor

[1] The U.S. League of Savings Associations has a membership of 4,400 savings and loan associations, representing over 99 percent of the assets of the $625 billion savings and loan business. League membership includes all types of associations—Federal and state-chartered, stock and mutual. The principal officers are: Rollin Barnard, President, Denver, Colorado; Roy Green, Vice President, Jacksonville, Florida; Stuart Davis, Legislative Chairman, Beverly Hills, Calif.; William O'Connell, Executive Vice President, Chicago, Ill.; Arthur Edgeworth, Director-Washington Operations; Glen Troop, Legislative Director, and Phil Gasteyer, Assoc. Dir.—Washington Operations. League headquarters are at 111 East Wacker Drive, Chicago, Ill. The Washington Office is located at 1709 New York, Ave., NW, No. 801, Washington, DC 20006; Telephone (202) 637-8900.

group joined with him in making a larger downpayment by becoming a non-occupant co-owner, then such a mortgage plan becomes feasible.

However, to attract investors there has to be an appropriate return, and investors are looking for a current return rather than just a pro rata share of future appreciation. Our suggestion is that the non-occupant investor should have the right to deduct his pro rata ownership share of depreciation and other expenses associated with owning investment property. This would give him a current return on his investment. Under the present Code and the IRS regulations, joint ownership business deductions are denied if one of the joint owners uses the property as his principal residence. If a joint owner who is using the property as his principal residence is paying a fair market consideration for the use of the property, we recommend the other non-occupant members of the group be treated as investors with the appropriate tax deductions of income property.

We feel our suggestion can be accomplished by amending subsection (d) of Section 280A of the Code (relating to use as a residence) by striking out "or any other person who has an interest in such unit, or by any member of the family (as defined in Section 267(c)(4)) of the taxpayer or such other person" in paragraph (2)—Personal Use of the Unit. This is a slight change to S. 31.

By allowing such business use deductions, principally depreciation, mortgage financing plans which involve a non-occupant investor and an owner occupant then become feasible. Additionally, the so-called "reverse annuity mortgage" concept also becomes more feasible.

As you may recall, a reverse mortgage is a loan that allows the elderly homeowner to convert the built-up equity in his home into monthly income that he may use to meet everyday living expenses. Our coownership concept with non-occupant deductibility of depreciation makes this concept workable.

On the surface, it may be argued that such a change in the Code would cause the Treasury to lose revenue. We would disagree with this contention. First, an investor interested in such a plan would probably look to other types of residential investment alternatives if such a plan were not available to him. If the investor bought the house outright and rented it to a taxpayer tenant, the investor taxpayer would enjoy all the rights associated with that investment including the deductability of depreciation. In such a situation the investor would be able to use 100 percent of the depreciable asset available to him. Under the plan we are proposing, the investor would only be allowed to write off the expenses including depreciation associated with his pro rata percentage of ownership in the property. If the investor and homeowner had a 50–50 split, then the investor would only be able to write off 50 percent of the expense, including depreciation on the investment portion of the dwelling.

The occupant owner would continue to count the property as a principal dwelling, and would not receive depreciation write-offs; upon sale of his property he would continue to defer any capital gains taxes when he rolls over his investment into a new house. However, the investor would have to pay capital gains taxes on any gains attributable to his percentage of ownership upon sale of the property. If our suggested change is adopted, the Treasury, thus, should break even.

The adoption of our suggested change would greatly enhance home purchase affordability to many American consumers. We feel that this amendment to Section 280A is in the public interest; it is worthwhile and can be accomplished without cost to the Federal Government and the American taxpayer.

A copy of our letter to ITS on the proposed "family rental" regulations is attached for your further information.

WARE, FLETCHER & FREIDENRICH,
Palo Alto, Calif., February 3, 1981.

Re Internal Revenue Code Section 280A.

Senator BILL ARMSTRONG,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR ARMSTRONG: As per our recent telephone conversation, I have reviewed the provisions of S. 31 dated January 5, 1981 which would modify Section 280A of the Internal Revenue Code (the "Code"). I understand from a conversation with Mr. Jack McDavitt that Representative L. A. ("Skip") Bafalis of Florida has introduced an identical bill (H.R. 1290) in the House.

As you know, S. 31 would eliminate the inequities in present Section 280A(d)(2) of the Code where there is a market rate rental of a dwelling unit owner by a taxpayer to a family member. S. 31 does not, however, eliminate the inequity created by Section 280A(d)(2)(A) where there is a market rate rental of a dwelling unit by a taxpayer to a co-owner of the unit. If allowed to remain, this latter inequity will

eliminate a creative financing arrangement which has been developed to facilitate home purchases in the skyrocketing markets in the San Francisco Bay Area and elsewhere.

Under this financing arrangement, an investor with capital to invest in real estate purchases a residence as a tenant-in-common with a person (the "homeowner") desiring to occupy the residence as his home. The investor and the homeowner share ownership of the residence in some ratio reflective of their respective investments in the residence. Conventional financing is easier to obtain for the balance of the purchase price because of the equity supplied by the investor.

During the co-tenancy period, the investor's interest in the residence is leased to the homeowner at market rental rates. Investors are attracted to provide capital to the above-described tenants-in-common arrangement in large part through the income tax losses generated by depreciation deductions attributable to the investor's interest in the tenants-in-common property during the tenancy term. From the investor's standpoint, such a transaction is a legitimate arms-length real estate investment entered into for the production of income.

Section 280A(d)(2)(A) of the Code as it presently reads appears to disallow those losses because the investor has an "interest" in the residence during the tenancy term. Such a result will undoubtedly create a disincentive to real estate investment that would otherwise help to alleviate a serious housing problem in Northern California (and presumably elsewhere).

We believe the underlying theory of S. 31 and H.R. 1290 is correct. Market rate rental rather than relationship to the taxpayer-lessor should be the relevant bench mark in determining whether income tax losses from rental of dwelling units should be deductible under section 280A(d)(2) of the Code. S. 31 could achieve that result if Section 1(b) thereof were amended to read as follows:

"(b) USE OF RESIDENCE BY FAMILY MEMBER OR CO-OWNER.—Subsection (d) of Section 280A of such Code (relating to use as residence) is amended—

(1) by striking out ", or any other person who has an interest in such unit or by any member of the family (as defined in section 267(c)(4) of the taxpayer or such other person" in paragraph (2), and. . . ."

I appreciate your time and cooperation in this matter and hope you succeed in your efforts to modify Section 280A so that it does not operate to automatically penalize taxpayers who rent dwelling units at market rates to co-owners and family members.

Cordially yours,

ARTHUR C. RINSKY.

SHAPIRO & SHAPIRO,
Washington, D.C., October 3, 1980.

COMMISSIONER OF INTERNAL REVENUE,
Washington, D.C.
(Attention: CC: LR: T (LR-261-76)).

DEAR SIR: On August 7, 1980, the Internal Revenue Service (hereinafter referred to as the "IRS") issued proposed regulations under § 280A of the Internal Revenue Code. 45 Fed. Reg. 52399 (1980).

I should like to comment upon two aspects of the proposed regulations which require substantial revision before final publication. these are: (1) the provisions relating to the deductibility of expenses attributable to the rental of a dwelling unit (hereinafter at times referred to as the "vacation home regulations"); and (2) the provisions relating to the deductibility of expenses attributable to the business use of a residence (hereinafter at times referred to as the "home office regulations").

The vacation home regulations

Section 280A of the Internal Revenue Code was enacted by Congress to prevent taxpayers from converting certain nondeductible personal expenses into deductible business expenses. *See* S. Rep. No. 94-938, 94th Cong., 2d Sess. 152 (1976) [hereinafter cited as "Senate Report"]; H.R. Rep. No. 94-658, 94th Cong., 1st Sess. 164 (1975) [hereinafter cited as "House Report"]. Congress was especially concerned with the opportunity for abuse in the case of vacation homes that were held for rental and also used for personal purposes. Senate Report, *supra* at 152; House Report, *supra* at 164.

The intent of Congress to focus specifically upon vacation homes is evidenced by the consistent and extensive use of the term "vacation home" (or its equivalent) in the committee reports. The term "vacation home" (or its equivalent) appears no less than 39 times in a five-page section of the House Report and 47 times in a six-page section of the Senate Report. House Report, *supra* at 162-66; Senate Report, *supra*

150-55. If further evidence of the intended scope of §280A is desired, one need only look to the heading of that section where the term "Vacation Homes" prominently appears.

Congress defined the term "vacation home" as: "a dwelling unit including a house, apartment, condominium, house trailer, boat, or similar property." Senate Report, *supra* at 154; House Report, *supra* at 166. No attempt was made to define the term "dwelling unit." Nor did Congress indicate any concern over the rental of nonvacation property. It is clear from the legislative history of § 280A that the term "vacation home" does not mean any dwelling unit. It means a dwelling unit suitable for vacation purposes.

Unless the proposed regulations are rewritten to clarify the intended scope of § 280A, the application of that section could result in highly anomalous tax consequences. In their present form, the proposed regulations raise an irrebuttable presumption that a taxpayer who rents any dwelling unit to a family member (as defined in § 267(c)(4)) is not operating a business for profit. *See* proposed regulations § 1.280A-1(e)(1)(ii). This presumption is applied regardless of whether a fair rental is charged and regardless of whether the dwelling unit is a vacation home. Since Congress intended only to prevent the use of vacation homes for tax avoidance purposes, this irrebuttable presumption, if not eliminated, will do violence to the intent of Congress, and will result in widespread overkill.

The following example is a case in point:

Taxpayer owns two identical houses near a major university in a large metropolitan area. House A is rented to four college students, one of whom is the taxpayer's brother. House B is also rented to four college students, however, all of these students are unrelated to the taxpayer. Both houses are rented on an annual basis for a fair rental. All eight students, including the taxpayer's brother, pay equal rent.

Under the proposed regulations, the taxpayer's deductions on house A would be limited to the amount of rental income from that house. But no such limitation would apply to house B. This result is absurd on its face. And it is only the tip of the iceberg. The number of equally absurd situations which could arise is unlimited. Therefore, the proposed regulations must be revised to specify clearly that §280A is inapplicable to the rental of non-vacation property. The necessary revision could be accomplished by redefining the term "dwelling unit" in § 1.280A-1(c)(1) as follows:

The term "dwelling unit": means a vacation home including a house, apartment, condominium, mobile home, boat, or similar property which provides basic living accomodations such as sleeping space, toilet, and cooking facilities.

This definition would preclude the application of § 280A to the rental of nonvacation property. The committee reports leave no room for doubt that Congress intended such a limitation.

The home office regulations

Under § 1.280A-2(b)(2) of the proposed regulations, a taxpayer may have only one principal place of business regardless of the number of business activities in which he may be engaged. This position was expressly rejected by the United States Tax Court as being contrary to the legislative purpose behind § 280A. *Edwin R. Curphey*, ¶78.61 P-H TC (Feb. 4, 1980).

In *Curphey*, Judge Tannenwald, after a thorough analysis of the relevant legislative history, held that a taxpayer is not restricted to one principal place of business. Judge Tannenwald stated:

"'Principal place of business,' as that term is employed in §280A(c)(1)(A), refers to the home as a specific situs in which a business is carried on. We find no indication either in the statute or in the legislative history that a taxpayer cannot have more than one principal place of business, for purposes of § 280A(c)(1), if he engages in more than one trade or business.

"We think that § 280A(c)(1)(A) requires a determination as to whether, with respect to a particular business conducted by a taxpayer, the home office was his principal place for conducting that business. Such a determination will fulfill the legislative objective of preventing deductions for the use of a home for purposes which are primarily personal. . . . Respondent's approach of requiring that the home office be the principal place at which the taxpayer's principal business is conducted would disallow otherwise allowable deductions in connection with the use of a home office which is a principal place of business. We do not believe that Congress intended such a result." *ID.* at 429.

The scholarly words of Judge Tannenwald require no elaboration. Section 1.280A-2(b)(2) of the proposed regulations must be revised to conform to the intent of Congress.

The proposed regulations should be revised further to permit deductions for ordinary and necessary expenses where a self-employed taxpayer, in conducting a

trade or business, uses a home office exclusively and on a regular basis as a second office. Where a self-employed taxpayer can document that he uses a home office for the performance of substantial (rather than merely incidental) services, there is no reason to prohibit deductions for expenses allocable to such work. Only where proper documentation is lacking should deductions be disallowed. The disallowance of legitimate deductions for ordinary and necessary business expenses cannot be justified merely upon the basis of IRS administrative convenience.

The following example illustrates the soundness of permitting deductions for ordinary and necessary expenses attributable to the use of a home office exclusively and on a regular basis for the performance of substantial services:

Taxpayer, an attorney, has an office 25 miles from his home. He also maintains a home office equipped with a desk, filing cabinet, typewriter, dictating machine, and telephone. Taxpayer works at his office away from home approximately 35 hours per week. He works in his home office approximately 15 hours per week.

In the above situation, the taxpayer should be allowed to deduct the expenses attributable to the maintenance of his home office in which he conducts approximately 30 percent of his business. If the taxpayer maintained a second office two minutes from his home, and if he used that office, rather than his home office, to perform 30 percent of this total services, no one would question the deductibility of expenses attributable to that office. There is no rational reason to treat a home office any differently.

Request for public hearing

I should like to request a public hearing to comment further upon the proposed regulations. If a hearing is scheduled, please inform me of the time and place thereof.

Thank you for considering my comments.

Sincerely,

RONALD E. SHAPIRO.

WESTMINSTER, COLO., *September 23, 1980.*

Senator WILLIAM ARMSTRONG,
Russell, Senate Office Building, Washington, D.C.

DEAR MR. ARMSTRONG: For some time now I have been very concerned about the tax situation in our country. I consider myself to be a middle class American who is being bombarded by more and more taxes to the point that it doesn't pay to work anymore. To make matters worse we also have inflation, unemployment, recession, energy shortages, national disgrace in Iran, and talk of world war at a time when some say our national defense is weak.

I am writing to you as I know that you are working hard to help control these evil forces which threaten to destroy our way of life. It is my desperate hope that you and the next administration can reverse America's trend towards self destruction.

This letter is being written to bring to your attention one more attempt by our government, the IRS in particular, to further increase our taxes. In the Rocky Mountain News on Saturday, August 23, 1980 on page 27H, there was an article by Kenneth R. Harvey entitled "Proposed IRS real estate regulations a bombshell." Please read it if you can. In it Mr. Harvey explains how we now have a "marriage tax" which penalizes couples who marry but rewards those who live together unmarried. He goes on to explain that the new proposed regulations which went into the Federal Register on August 7 will establish a "family rental tax." This new tax would discourage people from providing shelter to members of their own family and in-laws. This in turn could cause even more people to go on welfare and may cost our government even more than they collect on the taxes they so greedily try to force upon us.

I would now like to be a little more specific so you can see exactly what is bothering me. About two years ago in an attempt to help my in-laws with a difficult financial problem I purchased a home for them to live in. They are retired and living on social security with only a very small savings. To make matters worse their home was in a flood about three years ago. My tax burden had become so unbearable that I finally decided I had to invest in some rental property as the previous current tax laws encouraged me to do. I set up my investment and my assistance to my in-laws in the form of a house owned by me and rented to them. This was totally proper and even encouraged by the tax laws of last year. Now that I am locked into this arrangement the IRS proposes to change the rules. I find this very disturbing.

Please, if you can, stop these proposed rules from becoming law.

Sincerely,

DENNY FINKE.

GUNNISON, COLO., *Oct. 9, 1980.*

Commissioner of Internal Revenue,
Washington, D.C.
Attention: CC:LR:T (LR-261-76).

DEAR SIR: We are writing in regards to the proposed regulations to sharply restrict or eliminate entirely the deductions we may take for our Shaklee business on our Federal income tax.

We are one of those couples who chooses to put in the extra time and work needed in order to provide better for our family financially. We need every break we can get as a result of inflation—as you well know!

Presently, my husband is a school teacher making a minimum monthly income. He was Colorado Teacher of the Year in 1974, and one of the top five teachers in the nation that same year. He has been awarded the Freedom Foundation Teacher's Award, and an award from his Alma Mater, Abilene Christian University. He is a dedicated teacher who cannot support his family on the $17,000 a year income he receives.

Shaklee is our hope for the future, and our hope so that my husband can remain a teacher, too, and affect in a positive manner the young children of our community.

The unfairness of these proposed regulations in regard to tax breaks is extremely unreasonable. We have one room in our home dedicated totally to our Shaklee business, and it is my full-time concern. The tax breaks we've received the past four years have enabled us to keep struggling to make this business work.

We object vigorously to your proposed regulations, rule CC:LR:T (LR-261-76). Please cancel them immediately!

Sincerely,

KEITH AND SUE ROGERS,
Shaklee Sr. Supervisors.

DELOITTE, HASKINS & SELLS,
Denver, Colo., February 18, 1981.

Hon. WILLIAM L. ARMSTRONG,
U.S. Senate, Washington, D.C.

DEAR SENATOR: I understand you are having hearings regarding the inequities presented by section 280A of the Internal Revenue Code and interpretations by the Internal Revenue Service. Perhaps it would be helpful to present some experiences that I have been familiar with.

There have been several instances where clients of our Firm have considered whether it would be more economical (from a family point of view) to purchase a residence to rent to relatives at an arms length rental rate, rather than continue to have the relative rent the residence from outsiders. When told that they would not get the same benefits from the tax rules which would be provided if the same transaction were done with an outsider, they dropped the plans.

One instance occured in my own situation. My daughter is in school at Colorado State University in Fort Collins. She and three other ladies decided to go together and rent a condominium. The condominium was for sale and I considered purchasing it and renting it to the ladies. When researching the tax consequences, I discovered that I would be unable to benefit from the tax allowances that would be otherwise available from renting the condominium and dropped that possibility.

Yours very truly,

JAMES R. CUMMINGS, *Partner.*

H. A. MIKE FLANAKIN,
Silver Spring, Md., September 2, 1980.

DIRECTOR INTERNAL REVENUE SERVICE,
Washington, D.C.
Subject: Loop Holes Law.

DEAR MR. DIRECTOR: I have been made aware of the IRS publication in the Federal Register dated 7th August, 1980, to increase tax revenues. I understand this is in accord with a 1976 Federal Law for plugging loop holes.

The new rules are definitely aimed at people with middle and low incomes. And I am opposed to them.

I speak, from personal experience, in opposition to two of the penalties. They are: (1) the family rental tax and (2) home office rent deduction by small, self-employed professionals.

First: I have two sisters. One is 89 years old. She has no retirement income, but she owns her home. The younger sister is 82. She has retirement pay from a university and an endowment insurance policy. The sisters live in the older sister's house and the younger pays rent for her lodgings. They share other living expenses. I understand your new rules will require my older sister to pay a tax on the rental payment of my younger sister.

Second: I maintain a small consulting service in civil engineering. I have set aside a room in the basement of my home for an office and professional library. The room comprises 15 percent of the floor area of my home. In previous years I have claimed a business deduction as prescribed in IRS policy and procedure memoranda. The office area is just under 300 square feet. In 1979 the rental claim amounted to some $900, or $3 per square foot. Prevailing office space in Silver Spring is of the order of $15 per square foot. Had office rent not been claimed as a business deduction my tax would have been ten per cent higher. This may sound exceedingly small to some, but ten per cent increase in my Federal tax is quite significant to me. Also, I know my older sister will be hard pressed to pay a tax on the rent she gets from my younger sister.

Archibald Cox, Chairman of Common Cause Membership Drive, sent along a letter to me. He said some 14 multi-billion dollar corporations do not pay any Federal income tax. I'm sure our National Congress passed a "loop hole" tax law in 1976 with the expectation that IRS would go after these corporations in plugging tax loop holes. I can not believe members of our National Congress would countenance such penalties to be imposed upon widows, self-employed entrepreneurs and property owners as are set forth in this promulgation of 7th August.

Could it be, as some have inferred, IRS tried to close up loop holes in corporate taxes but failed? Did IRS find corporate tax lawyers and lobbyists invincible? Did IRS capitulate to the powerful organizations of special interests; and decide they had best look for a weaker apponent? Was IRS ashamed to tell Congress they couldn't out smart high paid tax lawyers and specialists of the wealthy corporations? And then, as bullies are want to do, select a group comprised of aged widows, self-employed professionals, owners of vacation homes, and military & government employees who choose to rent their homes while on assignments in other areas and, because this group cannot resist the pressure of the tax collector; decide it is the one to make up Government's loss of revenue to the 14 corporations Archibald Cox enumerated?

The only reply to this letter I hope for is to see the IRS Order, published in the Federal Register on 7th August, 1980, rescinded.

Yours very truly,

H. A. MIKE FLANAKIN.

ARLINGTON, VA., *August 28, 1980.*

COMMISSIONER OF INTERNAL REVENUE,
Washington, D.C.
Attn: CC:LR:T (LR-261-76)

DEAR COMMISSIONER: This letter is in response to the request for comments dutifully included with the notice of proposed rulemaking in the Federal Register of August 7, 1980.

My comments are limited to the provision of the proposed rules calling for an end to the current practice of allowing standard deductions for rental residential property leased to a relation at fair market value.

The decision to drop this provision seems to me arbitrary and thoughtless, though I know it probably is not.

The full-time rental of a residential property such as a home or condominium at full market value should be treated equally, no matter who occupies the dwelling. The issue should be how much is the rent, and what is the equivalent rent for the same dwelling.

My wife, brother, and I rent a condominium to my mother for full, fair market value. We are pleased to be able to accommodate her need for decent fairly-priced housing in an area plagued by condominium conversions and unscrupulous landlords.

She does not have the financial resources to purchase any type of housing at current interest rates.

In return for a fair rental price, she gets a decent apartment, owners attentive (by long practice) to her requests for repairs, and the tacit assurance that the place will be available indefinitely, even in the face of a tidal wave of condo conversions.

In turn, we get a known renter with impeccable references, a good long term investment, and the intangible value attached to helping a parent of limited means.

It is well known that the IRS has carefully reviewed situations of this sort under the current tax rules to see that fair rent is paid by the parent or relative. We have no intention of avoiding any tax liability.

Given that there are social and family benefits attached to this type of situation, and no significant difference in tax obligations, why not allow the current rule to stand?

One day in the future, my mother may wish to retire, which will reduce her income somewhat. It may be necessary at that time to arrange for a rent from her below the fair market value of the apartment. At that time, as part of the duties of children to a parent of limited means, we will assume the required additional tax burden as the property will then acquire a different status.

Until such time, we would hope that the law would provide for equal treatment for us as landlords and my mother as a tenant. She pays a rent equal to any other similar tenant, and we should have the tax obligations and benefits accorded a regular residential-property rental situation. Why should we be taxed additionally for carrying out normal family concerns under carefully-regulated conditions?

I strongly urge the Service to reconsider the segment of the regulation regarding rental to relations of residential property at fair market value proposed for implementation later this year.

The Federal Register fails to show the IRS's reasons for the reversal of current practice in this area. I for one, would be interested in the reasoning behind the decision on this aspect of the code.

Thank you for your consideration.

Sincerely,

JEFF ROSENBERG.

BEDFORD, N.Y., *September 23, 1980.*

COMMISSIONER OF INTERNAL REVENUE,
Washington, D.C.
(Attention: CC. LR.T. (LR-261-76)).

DEAR SIRS: Re: Home Office: I am asked to comment on tax treatment of the above.

(1) Where business involves telephone conversations with Europe, Africa and Asia, it is complicated to have an office in the city of New York and to live in the suburbs. The earliest train service available makes it impossible to arrive at a city office before 6:30 a.m., nor is it possible to stay much after 10.30 p.m. However, most European businesses like to discuss any problems which have arisen from the early morning before noon, and typically like to telephone no later than 11:00 a.m. local time, which is 6:00 a.m. E.S.T. time. (A similar situation exists in dealings with Australia and the Far East, but I am not familiar with those areas). I find that clients and businesses in Europe and Africa find it a considerable convenience to know they can speak to me if they telephone at this hour, especially when transatlantic lines become congested during the European afternoon—2:00 p.m. to 5:00 p.m. European time, or 9:00 a.m. to noon E.S.T.

(2) The very high rents payable in New York City make it extremely unattractive for a small business, especially when starting up, to saddle itself with the overhead of suitable city office accommodations.

(3) There are other, minor reasons, for having home offices: modern telephone and telephone mechanical equipment make home offices more practical; and as soon as the age of the worker advances, so productivity is greatly increased if the effort expended in commuting can be avoided.

(4) I believe the prejudice against home offices, which exist not only in the IRS but also in may other businesses, is out of date and based upon inadequate study of many other special circumstances relating to modern business. It may very well be there are some cases where taxpayers have sought to claim improper deductions for home offices; but these claims should be rejected without instituting any requirements, especially regulations not specifically authorized by the Act of Congress, which have the effect of further complicating the operation of small businesses, and reducing their profitability (and, consequently their tax revenue).

Sincerely,

B. J. HOWARD,
Chairman of C.A.I.M.S.,
Director of St. John Art International, Inc.

P.S.—Reviewing this comment—I see that I have omitted reference to the use of part-time help in home offices.

I use two ladies, on an irregular basis and for about twelve and twenty hours a week, thirty weeks a year, on average. These ladies are often highly qualified secretaries—who are in very short supply in this area, and throughout the country—and they have families and other commitments, and cannot work a full day even if they wanted to—and this type of "casual labor" is, in my view, very efficient.

Our business here is somewhat unusual—but it seems in many ways to indicate a trend, because in part of the growing internationalization of business in the U.S.A.

Similarly, the present economic conditions require that many families have two "bread winners": any assault on home offices would impact heavily against those not very well off, who are suffering from current economic conditions; it would therefore be discriminatory, and should be resisted politically as well as economically.

FORT COLLINS, COLO., *September 23, 1980.*

COMMISSIONER OF INTERNAL REVENUE,
Washington, D.C.
(Attention CCLRT (LR-261-76)).

DEAR SIR: This letter is sent to you in opposition to your reported plan to arbitrarily and across the board deny business deductions for a bona fide office in the home. I submit that the intent of Congress has always been quite opposite to this view of yours.

I have a modest consulting business. In it I render a public service, especially since I am the only expert in my field in this geographic region. I need an office and workshop to carry out this activity. I have such in my home; it is designed, furnished, and used *exclusively* for this consulting activity. It is not and cannot be used as a guest bedroom or the like.

My main occupation is as a tenured university professor. The university long-term, clearly published, and obviously correct policy is to forbid the use of university facilities and resources for a faculty member's consulting activities. However, in may case (not unique) my consulting activity is closely related to my teaching responsibilities at the university. In fact my consulting takes me out of the "ivory tower" and directly validates my teaching in the classroom as well as serving the public.

The small additional income permits me to carry out such activities (gratis) as serving as deputy coroner, advisor to 2 police departments (serving in a sworn capacity) without asking for any payment from public funds.

I submit that your proposal does not work for the good of the nation, it is aimed against those of us who cannot afford the outrageous costs of a rental office, it discourages initiative and the creation of small businesses, and is a roadblock in the way of those of us who have looked to this "phasing in" of a modest business as an honest device which will serve us to stay out of the destitute class when forced retirement hits us.

I urge you to continue the business deductions for offices in the home so long as they meet the REASONABLE criteria for a business.

Cordially yours,

CHARLES G. WILBER, Ph. D.

ADA, OKLA., *August 26, 1980.*

COMMISSIONER OF INTERNAL REVENUE,
Washington, D.C.
(Attention: CC:LR:C (LR-261-76)).

DEAR COMMISSIONER: Although I cannot come to Washington for the public hearings on the proposed regulations covering Home Office and Home Business Use Deductions, I would like to express my disagreement to Proposed Regulation 1.280A-2(b).

I disagree with the IRS's position that an individual can have only one principal place of business. It is my opinion that an individual can have several businesses, each having a principal place of operation. If Congress had intended for only a person's principal business to qualify for the home office deduction, I believe Congress would have used the term "principal business" rather than "principal place of business". The only official reference I can find concerning the definition of principal place of business is TD 2090, December 14, 1914. This reference deals with a corporation's principal place of business and does not apply to an individual's principal place of business.

In my specific case, I am a college teacher and also operate a private accounting practice from my home. I have a room used 100 percent of the time as an accounting office. In terms of total income, approximately 30 per cent comes from my accounting practice. My accounting practice is not my principal business, but my home office is the principal place of business for my accounting practice.

In summary, I believe there is a difference between the terms "principal place of businesss" and "principal business". Each individual probably has only one principal business, however, each business a person operates has a principal place of business for that specific business. In my opinion Congress did not intend to make the Home Office deduction as restrictive as the proposed regulations do. The fact that your home office must be a separate room used exclusively for business purposes, and that your home office must be your principal place of operating a specific business are the restrictions I believe Congress intended.

Your consideration of this position will be appreciated.

Respectfully submitted.

WILLIAM C. CHAPMAN,
Certified Public Accountant.

WASHINGTON, D.C., *February 17, 1981.*

Hon. ROBERT DOLE,
U.S. Senate, Washington, D.C.

DEAR SENATOR DOLE: I understand that the Senate Finance Committee has scheduled a hearing on S. 31 for February 23. I would like to add my support to that section of the bill which would require equitable tax treatment for lessors who rent property to a member of their family.

I would also like to respectfully recommend a minor amendment which merely extends the reasoning behind that portion of S. 31 to a situation that affects many other taxpayers. I believe the inequity in these cases is even more compelling than the inequity S. 31 would rectify.

In my situation, which is by no means unique, a partner and I purchased a condominium. It is not a vacation home. It is my permanent residence. I pay him market value rental for the equivalent of one-half of the unit. However, a clause in the Internal Revenue Code (Section 280(A)(2)(A))—the section S. 31 amends, apparently denies him the same tax privileges any other investor enjoys. The clause, which immediately precedes "or by any member of the family . . .", reads, "or any other person who has an interest in such unit."

The deletion of this clause would prevent the anomaly of allowing routine tax incentives to a family member but denying them to a non-relative. In my case, by the way, the change would have no effect on me—the resident—but would provide equitable treatment for my partner.

For purposes of equitable tax treatment the key, whether dealing with family members or others, is whether a fair rental is charged. as long as that requirement remains in the tax laws there can be no avoidance of Congressional intent.

If it is felt that an additional safeguard is needed, adding the requirement that the lessee must be the permanent resident would not adversely affect our situation.

The effect of making this additional change in the Code would be to prevent the inequitable treatment of an owner who has "an interest in such unit" just as S. 31 would prevent the inequitable treatment of a "family member."

In addition to providing equal treatment for taxpayers, the change should also have other beneficial effects. It should encourage investment, particularly investment by small investors. And it should allow low and moderate income people to purchase homes where they might otherwise be prevented from doing so due to the extremely high costs of homes and high interest rates.

I would be pleased to have this letter entered into the hearing record and to discuss this letter with you or your staff should you so desire.

Sincerely,

CHARLES E. SANDLER.

Senator ARMSTRONG. Mr. Olson, I have often said that I could not remember the last time I heard a new idea advanced at a committee meeting. I congratulate you for bringing in a new idea.

Mr. OLSON. Thank you, sir.

Senator ARMSTRONG. Usually I find that the function of meetings such as this is to make a record and for people to articulate, sometimes very forcefully and very well and in great detail and with scholarship and precision, and so on, ideas which have been previously surfaced in some other place.

I agree with the chairman that you raised a point which absolutely had not occurred to me. I instantly can imagine a parade of other professions who are similarly affected.

While I have not thought it through, your comment appeals to me on equitable grounds. I am not sure whether or not it is really practical to address the concern that you have raised, but my intent would be to at least consider that and see how many other professions might be affected and also to determine what the revenue implications would be if we got a new group of taxpayers suddenly taking deductions.

I thank you for raising that issue.

Mr. OLSON. We will be very happy to assist you in any way possible in that endeavor. This is an issue which is by no means new to us. It is something which has been on our books. Our members have been fighting with the IRS about this for some time.

Therefore, we are very pleased that you are so receptive to this. We understand that this does somewhat go beyond what you perceived to be the purview of this bill. However, we feel that it does deal with a problem of equity, and we encourage you to do so.

I would like to make one statement that I think is important, that is, that there is a problem that some of our teachers have or could well have in terms of the deduction of a space which is used for secondary income in that they have to be doing something conscientiously other than just making pin money.

It is important that many professionals—teachers are not the only ones—need the money in order to survive. It may well be only a fourth or less of his total income, but it is that fourth that may well buy a few of the niceties that people enjoy today.

Therefore, when we look at that it might be important in the record of the committee and in the report to stress that it is not for just 50 percent of the time or something such as that, but there is indeed an effort on the part of the taxpayer, which there is on the part of teachers, in terms of making this a conscientious part of their endeavor.

Senator ARMSTRONG. If I understand Mr. Olson's point correctly, it is addressed in the bill, although I defer to counsel.

Your point is, I think, there is no percentage test.

Mr. OLSON. That is right.

Senator ARMSTRONG. Someone might make 90 percent or 95 percent of their income, say, from a regular job.

Mr. OLSON. That is correct.

Senator ARMSTRONG. But they might be a member of Mr. Blum's Direct Selling Association. They might have a job as a part-time economic endeavor which might not produce 25 or 40 or any particular percentage of their income, but yet, nonetheless, qualify under this bill.

Unless counsel advises to the contrary, I think that is covered.

Mr. OLSON. I suspect the two of us would be interested in finding out the number of people that are members of his and my organizations. I suspect it is substantial.

Senator ARMSTRONG. Maybe you ought to merge the two associations.

I am grateful for the testimony we have had this morning. I think it is great.

However, I cannot resist the temptation in closing to point out to Mr. Olson the fact that he has brought a new idea to this subcommittee. Yet, it is something which his association and its members have so long been familiar with. It just proves what NEA has long contended, that is, that Senators are notoriously slow learners.

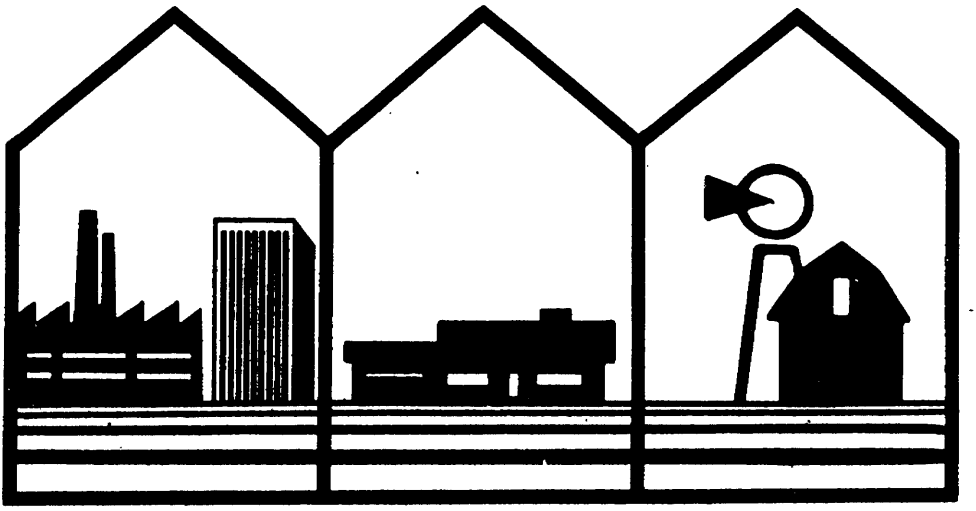
Thank you, Mr. Chairman.

Senator PACKWOOD. Let me also congratulate you for keeping your testimony under 5 minutes. I have long contended that intelligent people can say what they have to say in 5 or 10 minutes if they are forced to do so and if they have to think about it.

In past years we have listened to statements going on and on without cutting them off. I think the speaker probably in 20 or 25 minutes failed to make the point that he or she wanted to make because of the length of the statement.

Mr. PENICK. Your traffic light helped focus our attention.

[The prepared statements of the preceding panel follow:]



Statement of the
NATIONAL ASSOCIATION OF REALTORS®

TO THE:	SENATE FINANCE SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT
ON:	S. 31
BY:	GIL THURM
DATE:	FEBRUARY 23, 1981

Mr. Chairman and members of the Committee:

My name is Gil Thurm. I am Vice President and Legislative Counsel in the Government Affairs division of the NATIONAL ASSOCIATION OF REALTORS®. This Association, with over 700,000 members, is the largest trade association in the United States. Our membership is involved in all facets of the real estate industry -- residential, commercial, industrial and farm real estate.

We appreciate the opportunity to express our strong support for S. 31, introduced by Senator William Armstrong (R-CO) and cosponsored by Senators Dole, Boren, Mathias, Goldwater and Exon. This bill which would provide much needed clarity with respect to the deductibility of expenses attributable to home offices and would repeal the discriminatory anti-family provision that has come to be called the "family rental tax."

ENACTMENT OF THIS BILL IS URGENTLY NEEDED

The Tax Reform Act of 1976 contained a number of provisions designed to prevent taxpayers from deducting as business expenses a number of costs that were in reality personal expenses. Among these provisions were limitations with respect to the personal use of a rental property by the taxpayer, offices in the home, and the use of vacation homes. These limitations are now contained in section 280A of the Internal Revenue Code. On August 7, 1980, the Internal Revenue Service issued proposed regulations that set forth a number of additional limitations that appear to

be considerably beyond the intent of Congress when it enacted these provisions. Further, I.R.S. proposed to make these regulations retroactive to 1976.

Taxpayers were generally aware of the new limitations enacted in 1976 and filed their income tax returns mindful of these limitations. However, they were not of course aware at that time or in subsequent years of the interpretation that the I.R.S. would place on these limitations in 1980. As a result, income tax returns filed in those years will necessarily be found to be at variance with the I.R.S. interpretation unless this Congress acts to clarify existing law and makes these clarifications retroactive to 1976. It is vitally necessary to prevent I.R.S. from imposing their erroneous interpretation not only in the future but with respect to returns filed in years between 1976 and the present time by taxpayers who were in good faith attempting to comply with the law as passed by Congress.

Unless S. 31 is enacted quickly, these erroneous I.R.S. positions will also have a serious effect on individuals preparing their income tax returns for 1980. Unlike prior years, the widespread notoriety of the I.R.S. proposed regulations has put all taxpayers on notice as to the I.R.S. position and accounting firms and tax preparation services are now forced to counsel taxpayers that deductions they have taken in past years are now unavailable. Taxpayers must choose between the I.R.S. view and their own reading of the law and, no matter the choice, serious disruptions in the tax administration process will occur. Either amended returns would have to be filed when S. 31 is

eventually enacted, or taxpayers could expect to have their returns audited if they ignored the I.R.S. interpretation. S. 31 deserves the immediate attention of this Congress not only to clarify Congressional intent, but to spare taxpayers from having to make this choice.

RENTING TO FAMILY MEMBERS

One of the situations addressed by the Congress in 1976 was the attempt by some taxpayers to claim business deductions for vacation homes which the taxpayer used personally for a substantial period of time during the year. Naturally, a business deduction for maintenance and other expenses should be available only when the property is held in substantial part for business purposes. The legislation enacted by Congress placed limitations on these deductions when the taxpayer personally used the property. The statute defined personal use to include use by a taxpayer's spouse, child, parents, brother, sister or grandparents.

The I.R.S. has interpreted this provision so that it is a "personal use" of a property by the taxpayer even if the relative is being charged a fair rental. It would still be considered a "personal use" even if the taxpayer never sets foot on the property during the year. This is going too far. Such an interpretation is discriminatory and is beyond the intent of Congress when it enacted this provision. Certainly, we can find no statement in the Congressional Record, the Committee Reports on the 1976 Act, or anywhere else to justify this I.R.S. view.

This unwarranted discrimination against family rentals should not be tolerated. So long as a fair rental is paid, the tax law should not provide different rules solely because in one case the property is rented to a stranger and in another case the renter is a family member.

S. 31 would amend existing law by making clear that it would not be a personal use of a residence by the taxpayer if the residence was rented to a relative at a fair rental. This change would in no way affect the legitimate concerns addressed by the Congress in 1976 while at the same time preventing I.R.S. from imposing a rule that would unreasonably discriminate against a taxpayer's family.

BUSINESS USE OF THE HOME

Another area considered in the 1976 Tax Reform Act concerned limitations on the deductibility of expenses associated with home office expenses. The thrust of these limitations was that deductions would not be allowed for casual use of the home as an office and one of the specific limitations was that deductions would be available only if the office was a principal place of business of the taxpayer.

The I.R.S., in its proposed regulations, provided a further limitation by asserting that a deduction would be allowed only if the home office, in addition to being a principal place of business, related to the taxpayer's principal business. Thus, if a taxpayer has the industry to operate a business out of the home in addition to his or her primary income-producing activity,

the I.R.S. would disallow a home office deduction even though the office is the principal place of business for the second business.

It is important to note that the I.R.S. is already litigating this issue and lost a case in the U.S. Tax Court last year, Curphey v. Commissioner 73 T.C. No. 61 (Feb. 4, 1980). The Tax Court rejected the I.R.S. view and it is necessary for the Congress to affirmatively reject the I.R.S. view as well by enacting S. 31 in order to prevent other taxpayers from being forced into litigation on this matter.

We support S. 31 on this issue because it would make clear that the deduction for home office expenses is available where the home office is the principal place of business for a particular business conducted by the taxpayer. It is incorrect to assume, as does the I.R.S. proposed regulation, that a taxpayer can have only one principal place of business. Inflation and the general increase in the cost of living have forced many Americans to work at two or more trades or businesses and each of these trades or businesses may be conducted in a different location by the taxpayer. The tax code should not be interpreted to disallow normal business deductions if the taxpayer chooses to conduct a particular business from a home office. S. 31 provides a simple solution to a burgeoning problem created by I.R.S. and, in essence, merely reaffirms the position that many believed Congress had enacted in 1976.

MAINTENANCE OF A VACATION HOME

S. 31 would also clarify the 1976 Tax Reform Act with respect to the "personal use" of a vacation home by a taxpayer for repair and maintenance purposes. The Act had specified that it would not be considered a personal use of the vacation home by the taxpayer if the taxpayer was at the residence and spent substantially all of his time engaged in repair and maintenance activities. This was a sensible provision. The I.R.S., however, would now challenge this provision and consider the taxpayer to have personally used the vacation home in this situation, and thus impose limitations on the deductibility of normal business expenses, unless all others on the premises who are capable of working also spend substantially all of their time engaged in repair and maintenance activities.

Mr. Chairman, this I.R.S. position is simply not supported by the language of the 1976 Act or by any of the legislative history of that Act. The history of this provision clearly indicates an intention to apply this rule only to the taxpayer -- the owner of the unit -- and not to others. Further, this rule would be incapable of enforcement because there may be any number of reasons why a particular individual may not be working -- the task may be physically beyond the capability of the person, for example. The I.R.S. position is unrealistic and S. 31 would [illegible] the I.R.S. from implementing their proposed rule.

CONCLUSION

S. 31 would [illegible] and prevent the imposition of unjust and discriminatory tax rules on taxpayers by the I.R.S.

This measure deserves early consideration by the Congress and we commend the Committee for scheduling an early hearing on this matter. Enactment of this measure would correct obvious inequities and we urge the Committee to support this bill.

We thank the Committee for the opportunity to present our views on this bill, which is an important matter for many taxpayers. I will be happy to answer any questions the Committee may have.

The NATIONAL ASSOCIATION OF REALTORS® is comprised of more than 1,806 local boards of REALTORS® located in every state of the Union, the District of Columbia, and Puerto Rico. Combined membership of these boards is over 760,000 persons actively engaged in sales, brokerage, management, counselling, and appraisal of residential, commercial, industrial, recreational and farm real estate. The activities of the Association's membership involve all aspects of the real estate industry, such as mortgage banking, home building, and commercial and residential real estate development, including development, construction and sales of condominiums. The Association has the largest membership of any association in the United States concerned with all facets of the real estate industry.

Officers are: John R. Wood, President, Naples, Florida; Julio S. Laguarta, First Vice President, Houston, Texas; Budd Krones, Treasurer, Tucson, Arizona.

The Chief Administrative Officer is Jack Carlson, Executive Vice President and Chief Economist.

The Senior Vice President, Government Affairs is Albert E. Abrahams and the Vice President & Legislative Counsel, Government Affairs is Gil Thurm.

Headquarters of the Association are at 430 North Michigan Avenue, Chicago, Illinois 60611. The Washington office is located at 925 15th Street, N.W., Washington, D.C. 20005. Telephone 202/637-6800.

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NATIONAL ASSOCIATION OF REALTORS®
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REALTOR®

REALTORS TESTIFY ON FAMILY RENTAL TAX

Washington (February 23, 1981)--Congress should clarify the 1976 Tax Reform Law so that individuals who rent property to family members at fair market rates are not penalized at tax time, said Gil Thurm, vice president and legislative counsel in the Government Affairs Division of the National Association of Realtors.

Testifying before the Senate Finance Subcommittee on Taxation and Debt Management, Thurm called a recent Internal Revenue Service proposal to disallow normal tax deductions on property rented to a family member "unwarranted discrimination which should not be tolerated, and was not the intent of Congress when it passed the Tax Reform Act of 1976."

"We strongly support S.31 which would repeal the so-called 'family rental tax'," Thurm continued, "and clarify provisions in the law with respect to deductibility of expenses attributable to home offices."

-more-

FAMILY RENTAL TAX--add one

The Tax Reform Act of 1976 contained a number of provisions designed to prevent taxpayers from deducting as business expenses a number of costs that were in reality personal expenses. Among these provisions were limitations on personal use by the taxpayer of a rental property, offices in the home, and the use of vacation homes.

"On August 7, 1980 the IRS issued proposed regulations with a number of additional limitations which would not only impose an erroneous interpretation of the 1976 law in the future," Thurm said, "but the IRS proposed to make these regulations retroactive to 1976 affecting taxpayers who were in good faith attempting to comply with the law as passed by Congress."

Thurm explained that S.31 would not affect the legitimate concerns addressed by the Congress in 1976, but at the same time would prevent IRS from imposing a rule that would unreasonably discriminate against a taxpayer's family.

Thurm expressed support for another provision in S.31 which would prevent IRS from disallowing normal business deductions for second businesses conducted in the home.

"If a taxpayer has the industry to operate a business out of the home in addition to his or her primary income-producing activity," he said, "the IRS should not disallow a home office deduction because the office is the principal place of business for the second business."

-more-

FAMILY RENTAL TAX--add two

The National Association of Realtors also supports S.31's clarification of rules concerning the maintenance and repair of vacation homes, Thurm added.

S.31 would allow a property owner to claim normal business expenses if he maintains or repairs rental property and is accompanied by individuals who do not assist him in the work.

"The IRS attempt to force individuals accompanying the owner to spend all of their time in repair and maintenance activities, is clearly against the intent of the 1976 law," he said.

The National Association of Realtors represents more than 700,000 individuals involved in all phases of the real estate industry.

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W-29

Summary

Jared O. Blum
Chief Legal Counsel and
Director of Government Relations
Direct Selling Association
February 23, 1981

Summary

Testimony of Jared O. Blum

Chief Legal Counsel and
Director of Government Relations

Direct Selling Association

The Direct Selling Association representing over 125 companies who market consumer products to be sold primarily in the home through in-person sale, is concerned over recent efforts by the Internal Revenue Service to preclude independent contractors who are engaged in direct selling or other forms of private enterprise from utilizing the in-home office deduction for secondary businesses.

Internal Revenue position on this issue, as stated in their proposed regulation, issued on August 7, 1980 (45 Federal Register, 53399-407), is that a taxpayer may have only one principal place of business regardless of the number of business activities in which he engages. Specifically, the IRS states that a home office in which a taxpayer engages in a business as a self-employed person would rarely qualify as a taxpayer's principal place of business if his primary source of income is wages for services performed in another business on the employers premises. Hence, the Revenue Service is discriminating against individuals who engage in direct sales or other activities as supplementary source of income, and has indicated that they would prohibit deductions for expenses associated with maintaining an office in the home for these individuals. The Direct Selling Association supports the provisions in S. 31 which would make it clear to the IRS that Congress intended to make the in-home

deduction available for any business of the taxpayer for which the taxpayer qualifies under the other criteria in section 280A which includes:

(i) exclusive use of the office for the business of the taxpayer;

(ii) that such use is on a regular basis,

(iii) that such office is used as a taxpayer's principal place of business.

It is the position of the Direct Selling Association that under the 1976 Tax Reform Act, Congress had the opportunity to make the specific requirement that IRS now seeks to impose, and chose not to do so. Indeed, a recent tax court decision (Curphey v. Commissioner, 73 P.C. 766, 1980) affirms the position of the Direct Selling Association by holding that the in-home deduction is available irrespective of the number of businesses in which the taxpayer participates as long as the taxpayer meets the stated criteria under section 280.

The position of the Internal Revenue Service is discriminatory, anti-small business, and inconsistent with the legislative history, and the Direct Selling Association urges the Congress to send a clear message through the provisions in S. 11 to the IRS to ensure that the uncertainty that now exists over the applicability of the in-home deduction for supplemental businesses is removed.

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S. 31
Testimony before the
Senate Subcommittee on Taxation and Debt Management

Jared O. Blum
Chief Legal Counsel and
Director of Government Relations
Direct Selling Association
February 23, 1981

Good morning, Mr. Chairman. At the outset, I would like to thank the members of the committee for allowing the Direct Selling Association the opportunity to present its views in support of S. 31, and to state our particular support for the provisions of that legislation which relate to the home office deduction issue.

The Direct Selling Association is a trade association representing 129 direct selling companies and 100 firms that supply goods or services to direct selling companies. Direct selling is a method of distribution by which products and services are marketed directly to consumers through in-person sales transactions conducted primarily in the home. Companies within the industry market a vast range of consumer products and services: household cleaning products, cosmetics and other personal care products, jewelry, cookware and other housewares, educational material, home improvement products and services, food, vitamins, and many other products. Though the major direct selling companies have become almost household words, most of the companies within the industry are quite small.

The characteristics of the individuals who engage in direct selling are of great significance in this matter. According to a Lou Harris study, in any given year about four million people engage in direct selling in the United States. They live and work in every town and city in the country. Eighty percent of the direct salespeople are women, many of whom are also wives and working mothers, and almost

all direct sellers are independent contractors, not employees, of the companies for whom they sell. Substantial numbers of minorities, the handicapped, and the elderly also participate in direct sales activities. Because there are virtually no barriers or requirements for entry into direct selling, and because direct salespeople need not spend a specific number of hours selling nor work at specific times of the day or week, direct selling has wide appeal to those for whom an ordinary job is not alone sufficient to meet family needs. In short, direct salespeople are truly small businesspeople who, especially in today's economy, need the supplemental income they earn through direct selling.

Most direct salespeople use their homes in connection with their trade or business for a variety of purposes. The requirements of section 280A of the Internal Revenue Code are such that many of these people simply cannot deduct the expenses associated with these uses (other than for storage purposes) of their residence in the conduct of their trade or business. For example, section 280A(c)(1) precludes additional deductions unless the portion of the residence is used exclusively in connection with the trade or business. Many direct salespeople are not in a position to set aside a portion of their home for exclusive use in their business. Nevertheless, a good number of direct salespeople can meet this exclusive use requirement. For them, the opportunity to deduct the expenses associated with that use is, given the relatively small income involved, quite important. Home offices for direct salespersons, irrespective of whether direct selling

is a primary or secondary source of income, can be an integral part of their business for sales meetings, storage of merchandise, and other activities. In short, not only is the deduction consistent with the salesperson's status as an independent contractor, but it also helps the salesperson compete effectively in the marketplace.

The Direct Selling Association is quite concerned that the position taken by IRS through its proposed regulations effectively precludes these individuals from claiming the business expense deduction allowed under section 280(A)(c)(1) by disallowing deductions for in-home offices for businesses that are not the primary source of income to the taxpayer. It is precisely because of this concern that we are supporting the approach in S. 31, which would make it clear that Congress intended the in-home office deduction to be used by a taxpayer for deducting an in-home office use as the principal place of business for <u>any</u> business of the taxpayer.

A brief discussion about that IRS proposed regulation would be appropriate. Section 280A(c)(1)(A) of the Internal Revenue Code provides that a taxpayer may deduct expenses allocable to a portion of a residence that is used exclusively, on a regular basis, "as the taxpayer's principal place of business." IRC § 280A(c)(1)(A). The proposed regulation states that the taxpayer may have only one principal place of business, regardless of the number of business activities in which he or she engages. Prop. Reg. § 1.280A-2(b)(2). Thus, the regulation requires that when

a taxpayer engages in business activity at more than one location (for example, a taxpayer employed outside the home who also engages in direct selling from the home), it is necessary to determine the principal place of the taxpayer's overall business activity in light of all "facts and circumstances." Id. Among the "facts and circumstances" specifically identified are the following:

(i) the production of the total income from business activities attributable to each location;

(ii) the amount of time spent in business activities at each location; and

(iii) the facilities available to the taxpayer at each location. Id.

The proposed regulation further states that a home office in which a taxpayer engages in a business as a self-employed person would rarely qualify as the taxpayer's principal place of business if his or her primary source of income is wages for services performed in another business on the employer's premises. Id. Hence, this proposed regulation effectively denies most direct salespeople who engage in direct sales activity as a supplementary source of income deductions for the legitimate buisness expenses (other than storage unit expenses deductible under IRC § 280A(c)(2)) associated with maintaining their business in the home.

This result is neither required by the specific language of section 280A, nor necessary to correct the abuses that led Congress to enact

section 280A. Moreover, as noted in the preamble to proposed regulations, the requirement that a taxpayer can have only one principal place of business, even if he engages in more than one trade or business, conflicts directly with the recent decision of the Tax Court in Curphey v. Commissioner, 73 T.C. 766 (1980), wherein the tax court stated:

> "Principal place of business," as that term is employed in section 280A(c)(1)(A), refers to the home as a specific situs in which a business is carried on. We find no indication either in the statute or in the legislative history that a taxpayer cannot have more than one principal place of business for purposes of section 280A(c)(i)(A), if he engages in more than one trade or business.

73 T.C. 766, 776.

Congress was quite familiar with the abuses that had occurred with respect to the deductibility of expenses associated with the use of the home for business purposes, and it dealt with those abuses with specificity. For example, it chose to deny deductions to those who merely used a portion of a residence in connection with the production or collection of income under section 212, rather than carrying on a trade or business under section 162. It also chose to deny deductions if the space within the home was not used "exclusively" and on a "regular basis" for business purposes, thereby denying deductions to those who combined business and personal use. Finally, it restricted the ability of employees to claim deductions, requiring that the use be for the convenience of the employer. Given these very detailed and precise restrictions, it is erroneous for the Service to have concluded that Congress intended, but failed to articulate clearly the intent,

that the taxpayer could have only one principal place of business, regardless whether engaged in more than one trade or business.

Furthermore, the legislative history offers no support for such a proposition. Nowhere in any of the various committee reports addressing section 280A or the floor debates accompanying passage of the section is there any suggestion that Congress contemplated that a taxpayer could have only one principal place of business, notwithstanding the existence of more than one trade or business. See H.R. Rep. No. 94-658, 94th Cong., 1st Sess. 157-162 (1975); S. Rep. No. 94-938, 94th Cong., 2d Sess. 144-150 (1976); S. Rep. No. 94-1236, 94th Cong., 2d Sess. 435 (1976); 121 Cong. Rec. 38596-38700 (Dec. 4, 1975); 122 Cong. Rec. 22836-38 (July 20, 1976). The various explanatory publications prepared by the staff of the Joint Committee on Taxation are similarly silent on this point. See Staff of Joint Comm. on Taxation, General Explanation of the Tax Reform Act of 1976, 94th Cong., 2d Sess., 136-141 (1976); Staff of Joint Comm. on Taxation, Summary of the Tax Reform Act of 1976, 94th Cong., 2d Sess. 23 (1976).

Not only is the proposed regulation not mandated by the statute, it is not necessary to carry out the intent of Congress in enacting the statute. Although Congress clearly intended to restrict severely the deductibility of expenses attributable to the use of a residence in connection with a trade or business, it did not seek to abolish

all such deductions -- a rather simple course of action. Congress sought to ensure that the taxpayer could not deduct as ordinary and necessary business expenses the ordinarily nondeductible expenses associated with maintaining a home, not to deprive the taxpayer of otherwise legitimate deductions if the taxpayer incurred incremental or additional costs as a result of a bona fide business, rather than personal, use of the home. See H.R. Rep. No. 94-698, supra, at 160; S. Rep. No. 94-938, supra, at 147.

This legitimate concern about abuse of deductions for business use of the home is fully satisfied by the statutory requirements that the space be used exclusively and on a regular basis for business purposes, IRC § 280A(c)(1); that the business expense deductions not exceed the difference between the gross income attributable to the business use of that space and deductions allocable to that space that are allocable regardless of use, IRC § 280A(c)(5); that the taxpayer be engaged in a trade or business, not just the production of income, see IRC §§ 280A(c)(1) & (2); and that, if the taxpayer is an employee, the business use must be for the convenience of the employer. IRC § 280A(c)(1). If these requirements are rigorously applied, it is difficult, indeed impossible, to perceive how the taxpayer -- even one who is engaged in a business that represents a secondary source of income -- can deduct normal living expenses under the guise of the business expense deduction.

Certainly, during present economic conditions, personal initiative to begin small enterprises should be encouraged by government policy, not discouraged through ill considered regulations. The additional regulatory requirement that the taxpayer use the residence as the principal place of his or her principal trade or business does nothing to prevent the abuses at which section 280A was directed that is not already accomplished by the stringent statutory criteria. The requirement imposes a significant hardship on the legitimate small business person who, because of economic circumstances, is forced to undertake the bona fide business of direct selling as a secondary source of income.

CONCLUSION

Congress enacted the storage use deduction set forth in section 280A (c)(2) because it recognized that the exclusive use requirement would preclude most direct sales people from qualifying for deductions under section 280A(c)(1). Congress, however, did not prohibit, and the Revenue Service cannot impose by regulation a requirement that prohibits direct sales people from claiming legitimate business expense deductions under section 280A(c)(1)(A) if they satisfy the exclusive use test.

The Direct Selling Association believes that passage of S. 31 would send a clear message to the IRS to end discriminatory treatment of direct sellers and others who use their homes as offices for secondary or supplemental businesses. It is unfortunate that the Revenue Service

consistently attempts to remove the underpinnings for independent entrepreneurship in this country, be it through its attacks upon the tax status of independent contractors (with which the subcommittee is familiar), or through its misconstruction of congressional intent in the area of in-home office deductions. It is precisely because of this approach by the Service however, that the clear statement which is contained in S. 31 is necessary. DSA hopes that Congress will quickly remove the cloud placed by the IRS on this issue for the thousands of small business taxpayers who utilize home offices.

I will be glad to answer any questions you may have.

jae
2/20/81

ARTHUR ANDERSEN & CO.

STATEMENT OF WILLIAM C. PENICK

OF

ARTHUR ANDERSEN & CO.

ON

CERTAIN PERSONAL, RENTAL AND BUSINESS USE OF HOMES

BEFORE THE

FINANCE SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

OF THE

UNITED STATES SENATE

HEARINGS ON SENATE BILL 31

FEBRUARY 23, 1981

WILLIAM C. PENICK OF ARTHUR ANDERSEN & CO.

CERTAIN PERSONAL, RENTAL AND BUSINESS USE OF HOMES

SUMMARY OF COMMENTS

I. We are pleased that Congress is refocusing on this troublesome area of the tax law.

II. While we agree with the original intent of Congress to prevent abusive situations, we believe that existing Section 280A creates limitations and hardships in situations that are not abusive.

III. Use of a rental unit by a family member who pays a fair rental for such use should not produce limitations on deductions where the taxpayer does not individually use that unit for personal purposes during a taxable year.

IV. Where a taxpayer does not individually use a dwelling unit for personal purposes at any time during a taxable year, the rental at a fair price of his interest in the unit to another person having an interest in such unit should not be considered personal use by the taxpayer. Alternatively, the definition of "an interest in such unit" should be changed to apply only to abusive situations.

V. Less restrictive rules should be provided for time-sharing arrangements where it is clear that the taxpayer purchased a unit as an investment without any intent to utilize it for personal purposes.

VI. The exception from the definition of a dwelling unit for property used exclusively as a hotel, motel, inn or similar establishment should be clarified.

VII. Congress should provide more guidance to the Secretary in determining days used for repairs and annual maintenance which would not be considered personal use.

VIII. In determining the exact number of days of personal use (the 14 day or 10% test), the days of arrival and departure should not both be counted.

2.23.81

My name is William C. Penick, and I am Managing Director for Tax Policy for Arthur Andersen & Co. We welcome the opportunity to testify before this committee today on the subject of certain personal, rental and business use of homes.

Ours is an international accounting firm with offices in major parts of the world. While we have many clients who would be affected by these legislative proposals that will be considered, we do not represent them in this testimony, and the views expressed are those of the Firm itself.

We have reviewed the amendments proposed in S. 31 to modify certain family rental and home business tax provisions that are currently included in Section 280A of the Internal Revenue Code. We are pleased that your committee is refocusing its attention on this troublesome area of the tax law. While we agree with the original intent of Section 280A to eliminate certain abuses related to the combination of personal, rental and business use of dwelling units, we believe the current provisions in the law go beyond the correction of these abuses. Our comments today are addressed to the specific amendments

proposed by S. 31 and to additional related areas that we believe should be considered.

USE OF RESIDENCE BY FAMILY MEMBER

We concur with the emphasis of this amendment. We agree that as a general rule rental of a dwelling unit to a family member at a rate which, under the facts and circumstances, is fair rental should not be considered an area of abuse which should cause the limitation of deductions attributable to the unit. The language in the proposed amendment, however, may result in situations which this committee may believe are not appropriate.

Taxpayers who use a dwelling unit for personal purposes during a year and rent that same unit to family members and unrelated parties for fair rental may derive certain benefits from this amendment that are unintended. We have provided in Exhibit I an example of a fact situation that could provide significantly different tax results under existing law and the amendment under S. 31. We believe that this different result may go beyond what this committee would consider appropriate under the circumstances.

Under the facts in Exhibit I, and under present law, the taxpayer would be deemed to be using the dwelling unit as a residence, and could not deduct expenses related to the rental of such dwelling unit except to the extent the rental income exceeds the deductions allocable to such rental which are allowable whether or not such unit is rented. The change proposed in S. 31 would allow, under the same facts, deductions attributable to the rental of the dwelling unit whether or not the rental income exceeds these otherwise allowable deductions. Thus, the taxpayer might have an incentive to invite family members to use the property so that the taxpayer could receive benefits not otherwise available to him.

If the committee concludes that this would create an area of potential abuse, it could revise the definition of personal use to exclude rentals to family members at a fair rental rate only where the taxpayer does not use the dwelling unit for personal purposes. Such a provision would allow taxpayers who own dwelling units solely for rental and investment purposes to deduct all those expenses normally associated with such a rental operation. However, this provision would not allow taxpayers to circumvent the specific limitations on their own personal use of a residence by renting the unit to family members.

USE OF RESIDENCE BY ANOTHER PERSON HAVING AN INTEREST IN SUCH RESIDENCE

Under existing law, personal use of a residence includes rental at a fair rental rate of a taxpayer's interest in a dwelling unit to an unrelated person having an interest in that unit. We believe that this definition of personal use is too restrictive and should be changed. In situations where a taxpayer does not individually use a dwelling unit at any time during a taxable year for personal purposes, the rental of his interest in that unit at a fair rental to another person having an interest in that unit is not an abuse situation.

This restriction on the rental of co-owned property has broad implications to the housing industry. In today's period of high interest rates and high prices for single family residences, the existing provisions of Section 280A have restricted the development of alternative sources of financing to assist families who are attempting to purchase a home for the first time. Many of these families have difficulty in raising the required funds for a down payment and in qualifying for a mortgage at current interest rates. As a result, the dream of home ownership is not attainable for many families.

A financing device that has been developed to assist these first-time homeowners is commonly referred to as "shared equity." Under these arrangements, investors and prospective homeowners each purchase a half interest in a home. Typically, the person who will live in the house has an option to purchase the investor pool's half interest at a later date, and, in the meantime, makes payments on his own mortgage and rents the pool's interest at fair market value. The transaction might look something like this:

May 1, 1981	ABC Investment offers an undivided half interest in a $90,000 house for immediate occupancy and an option to purchase ABC's interest in 1986.
June 1, 1981	Sam Brown purchases the undivided interest, giving a mortgage to XYZ Savings and Loan, and also acquires the option to purchase ABC's interest in 1986.
June 15, 1981	Sam Brown and ABC settle on the property, and enter into a lease so that Sam leases ABC's half interest at fair rental value.

May 1, 1986 — The option to purchase matures. Sam may either purchase ABC's half interest at fair market value or they may agree to sell the home, and each go his separate way.

This has several advantages for the purchaser/lessee. He may buy a house with a much smaller downpayment, and may more readily qualify for a mortgage. He has full use and enjoyment of the home during the period, and has also made an investment in his future. His earning power will typically increase over the period.

The investment pool as seller/lessor, on the other hand, might not fare as well because of Section 280A (d)(2)(A) which defines personal use as use of a dwelling "for personal purposes by the taxpayer or any other person who has an interest" in the unit. (Emphasis added.)

Once again, we understand that Congress intended to curb abuses by narrowly defining personal use. In the case of shared equity arrangements, however, the investment pool, which has entered the arrangement with a pure profit motive, is precluded from receiving the usual benefits

associated with rental properties because it has rented the property to someone who has an interest in it, even though the transaction is at arm's length and at fair market value and the investor pool never occupies the property. In these days of difficulty for the housing industry and for young homeowners, we suggest that the restrictions on rental of co-owned property be eased in these circumstances.

We recommend that the definition of personal use be changed so that it does not include the rental of the taxpayer's interest in a dwelling unit to any other person having an interest in that unit, if that taxpayer does not individually use that unit at any time during that taxable year for personal purposes.

If this committee does not follow the above recommendation with respect to rentals to others who have an interest in a dwelling unit, we believe the definition of "interest" in a unit should be further limited from the definition under existing law. Both the General Explanation of the Tax Reform Act of 1976 prepared by the Staff of the Joint Committee on Taxation and the Proposed Regulations previously issued under Section 280A provide a very broad definition of an interest in a dwelling unit.

This definition may be construed to include an option or other contractual right to acquire the unit even if the acquisition price is equal to the fair market value of the dwelling unit at the date of acquisition and no part of any rental payments can be applied toward the acquisition price. This definition should be restricted to apply only to abusive situations.

TIME-SHARING ARRANGEMENTS

In most time-sharing arrangements, the number of owners of a particular dwelling unit can be as high as 20. These owners are generally unrelated, and it is very common for the identities of some or all of the other unit owners to be unknown to a unit owner. It is also common for taxpayers to purchase a time-sharing unit as an investment without any intent to utilize the unit for personal purposes during his ownership period or any other time period.

The Proposed Regulations previously issued under Section 280A provide, in part, that "each of the persons with an interest in the unit subject to the time-sharing arrangements shall be considered to have a continuing interest in the unit regardless of the terms of the interest under local law." Our interpretation of this is

that, even in those circumstances where no actual use of a time-sharing unit occurs by the taxpayer and the taxpayer does not stay in the unit in which he has an interest at any other time of the year, the limitations of Section 280A would nevertheless apply if other time-sharing unit owners violate the personal use limitations of Section 280A(d). We believe it is improper to place on a taxpayer the responsibility of monitoring the activities of other taxpayers, the number of which may be as high as 20 or more, and inequitable to apply the limitations of Section 280A to a taxpayer for actions over which he has no control.

We are aware of the administrative burden on the Internal Revenue Service in enforcing Section 280A in the area of time-sharing arrangements and agree that the rules in this area need to be restrictive. However, we believe that an exception to the application of Section 280A should be made for a taxpayer where it is clear by evidence that no personal use of a unit has occurred by that taxpayer or any related party for the time period owned by the taxpayer or any other period of time during the year with respect to that specific unit.

CLARIFICATION OF SECTION 280A(f)(1)(B)

This section excludes from the definition of the term "dwelling unit" any portion of the unit which is used exclusively as a "hotel, motel, inn or similar establishment." Considerable confusion exists among taxpayers and practitioners as to whether or not this exception applies where individual units within a complex are owned in fee simple by individual taxpayers but the complex as a whole is operated in a manner not unlike that of a hotel, motel, etc. Many of these situations involve rental pools. Much of the confusion centers around the phrase "used exclusively" within this exception. Some taxpayers believe that "used exclusively" refers to the manner in which the complex is operated. Others believe this is intended to apply only in situations where there is no owner occupancy whether or not the owner has to pay a fair rental for his occupancy.

We believe the language in this exception should be clarified by substituting the phrase "operated exclusively" for "used exclusively." In addition, the normal owner occupancy limitations of Section 280A should not apply to the following situations:

1. Resident Owner Engaged in Full-Time Trade or Business

This concept would apply to hotel or motel type arrangements where the operator/owner lives full time on the premises of the complex and depends on the rental income from the other units as his primary source of income.

2. Absentee Owner Not Engaged in Full-Time Trade or Business

More severe restrictions should apply to this situation to prevent abuse. We suggest the following tests that might be adopted.

a. A specified minimum number of units (e.g., 50 or 100) under common operation as a hotel or motel arrangement;

b. All owner occupancy must be for a fair rental rate; and

c. No one owner could own, directly or indirectly, more than the greater of one unit or one percent of the total number of units operated together under common management.

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REPAIR AND MAINTENANCE OF DWELLING UNIT

We concur with the amendment proposed in S. 31 setting a reasonable standard for defining a qualified repair or maintenance day which would not be deemed to be a day of personal use. Under existing law, Congress has delegated authority to the Secretary to prescribe by regulations circumstances under which the use of a dwelling unit for repairs and annual maintenance will not constitute personal use. However, in the regulations proposed under Section 280A, the Secretary has gone beyond the intent of Congress and developed a test which is harsh and burdensome to the taxpayer without limiting it to abusive situations. The test in S. 31 is reasonable and should prevent any substantial abuse.

DETERMINATION OF NUMBER OF DAYS OF USE

Under proposed regulation (Sec. 1.280A-1(e)(5)), both the day of arrival and the day of departure are counted in making the personal use test under Sec. 280A(d)(1) (e.g. the 14 day rule), even though neither day is a full day of occupancy. For example, if the owner arrives at his dwelling unit at 11:00 P.M. on February 10 (a Tuesday) and leaves at 6:00 A.M. on February 23 (a Monday), this is construed as a full 14 day period, even though for all practical purposes the taxpayer has enjoyed the use of the unit for only 12 days.

This seems a narrow interpretation and we suggest that the statute be clarified to provide that the day of arrival will not be counted but the day of departure will.

CONCLUSION

We believe the enactment of Section 280A in 1976 went beyond the intent of preventing abusive situations. It has created undue burdens and hardships on taxpayers who have purchased dwelling units without any intent to use such units for personal purposes. Section 280A should be amended to eliminate these undue burdens and hardships without creating opportunities for abuse. The Secretary has under proposed regulations construed the application of Section 280A in the most restrictive manner possible. Therefore, Congress should address family rentals, time-sharing arrangements, rental pools and the use of units for repairs and maintenance to provide direction to the Secretary and to taxpayers consistent with what Congress considers abusive situations.

Accordingly, the following changes to Section 280A are recommended:

1. If a taxpayer does not individually use a dwelling unit for personal purposes at any time during a taxable year, the rental of his interest in such unit at a fair rental to a family member or to any person having an interest in such unit should not be considered personal use.

2. Personal use by another owner of an interest in a time-sharing unit should not be attributed to a taxpayer where it is clear that neither the taxpayer nor any related party has had any personal use of that unit for the time period owned by the taxpayer or any other period of time during the year.

3. The exception to Section 280A for properties "used exclusively as a hotel, motel, inn or similar establishment" should be clarified and expanded to include certain rental pool arrangements.

4. More specific guidance should be given to the Secretary to determine a reasonable definition of a qualified repair or annual maintenance day.

5. In determining exact days of use the days of arrival and departure should not both be considered as personal.

We appreciate the opportunity to submit our views on these matters, and we urge favorable action by Congress on these recommendations.

EXHIBIT I

EXAMPLE OF APPLICATION OF
RULES RELATED TO RENTAL OF
DWELLING UNITS TO FAMILY MEMBERS

FACTS

Taxpayer A owns a dwelling unit he operates individually as a rental property. A's dwelling unit is used during the taxable year as follows:

	Days
Used by A for personal purposes	16
Rented to family member of A at fair rental	15
Rented to unrelated parties at fair rental	150
Total days used	181

Existing Law

Under existing law, A would be deemed to be using the unit as a residence because his personal use (31 days) exceeds both 14 days and 10 percent of the days rented to unrelated parties at fair rental. Deductions attributable to the rental period would be allowable only to the extent the rental income exceeds the deductions allocable to the rental period which are allowable whether or not the unit is rented.

Amendment Proposed by S. 31

Under the amendment proposed by the bill under consideration by this committee, A would not be considered as using the dwelling unit as a residence (16 days personal use vs. 165 days rental use) and deductions allocable to the number of days the unit is actually rented would be allowable without limitation.

CITIZEN'S CHOICE

STATEMENT ON S. 31

BEFORE THE

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

OF THE

SENATE FINANCE COMMITTEE

February 23, 1981

2221 Dirksen Senate Office Building

CITIZEN'S CHOICE, INC. • 1615 H Street N.W. • Washington, D.C. 20062 • (202) 659-5590

CITIZEN'S CHOICE

SUMMARY

Citizen's Choice is a national grassroots taxpayers' organization founded in 1977. It has 70,000 members nationwide.

Citizen's Choice supports S. 31 which would repeal the so-called family rental/home business tax. It addresses two problems which affect Citizen's Choice members, many of whom are independent contractors: namely, the business use of homes and the rental of residences to family members.

Citizen's Choice believes that home-based entrepreneurs who operate part-time businesses should be allowed to deduct business expenses for maintaining offices in their homes. The imposition of proposed IRS regulations under section 280A of the Internal Revenue Code would only serve to discourage such entrepreneurship and penalize citizens for having more than one business.

The organization also disagrees with the proposed ruling by the Internal Revenue Service which would cause individuals who rent homes to family members to pay higher taxes than if they rent to non-family members. Although the IRS argues that the 1976 Tax Reform Act empowered them to issue the regulations, Citizen's Choice disagrees.

Citizen's Choice supports enactment of S. 31 because it would remove any hint in the U. S. Tax Code that renting to family members automatically carries a higher tax bill.

Citizen's Choice feels that these proposed regulations under section 280A presuppose that the American taxpayer is attemping to take advantage of the tax system and therefore pay less than a fair share of taxes. The organization calls the committee's attention to the fact that the American people have maintained a superior record of voluntary contributions to the U. S. Treasury and that citizen confidence in the system must not be eroded.

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CITIZEN'S CHOICE

Mr. Chairman, I am Thomas D. Bell, Jr., Executive Vice President of Citizen's Choice, a national grassroots taxpayers' organization founded in 1977. Citizen's Choice has 70,000 members nationwide.

I am pleased to have this opportunity to appear before the Subcommittee on Taxation and Debt Management to comment on S. 31 which would repeal the so-called family rental/home business tax. Citizen's Choice is interested in S. 31 because it addresses two specific problems which affect our members, many of whom are independent contractors: namely, the business use of homes and the rental of residences to family members.

The family rental/home business tax stems from provisions included in the 1976 Tax Reform Act and the subsequent interpretation of those provisions by proposed IRS rules under section 280 of the Internal Revenue Code. These proposed regulations were published in the Federal Register on August 7, 1980 at page 52399.

Citizen's Choice is particularly concerned with the regulations which set forth rules for determining the deductibility of expenses in connection with the business use of a dwelling unit used by the taxpayer for personal purposes during the year.

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The proposed regulations require that a home office be not only the principal place of the taxpayer's business, but the principal place of the taxpayer's "overall business activities" before a deduction is allowed. Under the proposed IRS regulations, a homeowner who operates a legitimate part-time or secondary business from his or her home will no longer be able to deduct business-related expenses for that office.

Citizen's Choice believes that home-based entrepreneurs who operate part-time businesses should be allowed to deduct business expenses for maintaining offices in their homes. The imposition of these proposed regulations would only serve to discourage such entrepreneurship. Why should the government penalize citizens for having more than one business?

Those who argue in favor of the proposed IRS regulations contend that the 1976 Tax Reform Act empowered the IRS to issue the regulations. Citizen's Choice disagrees. We believe that the proposed regulations place more severe limits on the deduction of expenses resulting from the business use of a home than was ever intended by Congress.

When Congress adopted section 280A (c)(1)(A) in 1976, it was concerned with the lack of specific rules governing the deductions of expenses for maintaining an office in the taxpayer's home. Both the House and Senate Committee reports on the Tax Reform Act of 1976 indicate that Congress wanted to replace the subjective standard developed by several courts which permitted deductions where a home office was "appropriate and helpful" to the taxpayer's business. In addition, both reports indicate that the committees feared that "expenses otherwise considered nondeductible personal, living, and family expenses might be converted into deductible business expense simply because, under the facts of a particular case, it was appropriate and helpful to perform some portion of the taxpayer's business in his personal residence."

The explanation of the provisions contained in the House and Senate Committee reports also stress that the provision was intended to prevent the deductions of personal and family expenses. They discuss the fact that under section 280A, the home office must be used exclusively for the business, that it must be used on a regular basis, and that it must be used in a trade or business, not merely for income producing activities.

The explanations neither discuss nor provide examples of how a taxpayer with two or more businesses is to be treated.

Citizen's Choice believes that the use of a home office to conduct a second or third business is no more likely to result in the taxpayer deducting personal or family expenses than the use of a home office to conduct a single business. Nor does Citizen's Choice believe that adoption of the IRS position in the final regulations would help produce the objective standards Congress sought, but instead would result in requiring an additional subjective decision. A taxpayer with several businesses, some of which are run from a home office and others from a second location, would be forced to prove annually that the home constituted the principal business location of the overall business activities. And if the taxpayer's income from the various businesses fluctuated annually, the principal site of the overalll business activities, and thus the right to deduct the home office expenses, might vary from year to year.

Citizen's Choice is deeply concerned with this interpretation. As I have noted, many of our members are independent contractors. They are entrepreneurs who set their own goals, hours and methods of operation and their earnings are based on their own hard work. Independent contracting is an important part of the economy. It offers jobs to people who choose not to accept full-time employment and it offers other individuals a supplementarty income. In addition, it offers economic independence

to those citizens who are willing to work hard.

We opppose the proposed IRS regulations under 280A of the Internal Revenue Service Code because they are an attempt by government to jeopardize our economic freedom.

Citizen's Choice does not believe this was the intent of Congress in the Tax Reform Act of 1976. We feel it is unfortunate that the IRS has chosen to interpret the "principal place of business" test to mean that if you hold a full time job and run another business from your home, you lose some of your business deductions for the second business.

Citizen's Choice supports adoption of S. 31. Enactment of S. 31 would make it clear that a deduction would be available without unwarranted limitations for expenses related to the use of a portion of a home for the operation of a business.

The bill also provides that the principal place of business test is met for any business as long as that business is primarily run from the home.

Mr. Chairman, I also wish to comment briefly on the matter of family home rentals. Citizen's Choice members have been concerned with the proposed ruling by the Internal Revenue Service which would cause individuals who rent homes to family members to pay higher taxes if they rent to non-family members.

Once again, this tax stems from provisions included in the 1976 Tax Reform Act, and as those provisions were subsequently interpreted by proposed IRS rules. As in the case of the business use of homes, the IRS argues that the 1976 Tax Reform Act empowered them to issue the regulations. Once again, Citizen's Choice disagrees.

In 1976, Congress intended to put a limitation on the availablity of business deductions relating to vacation homes which taxpayers used themselves for substantial periods. "Personal use" was broadly defined to include use by a sister, brother, spouse, grandparent, child, or grandchild. The rule has been interpreted by the Internal Revenue Service to apply to any dwelling unit, including houses, apartments, condominiums, mobile homes and boats, as well as to vacation homes. This presents a problem to an individual who rents any residence to a family member.

Citizen's Choice supports enactment of S. 31 because it would remove any hint in the U. S. Tax Code that renting to family members automatically carries a higher tax bill. It would remove language from the section of the Internal Revenue Service Code which could be interpreted by the IRS to allow discrimination against renting to family members. If a dwelling is rented at market rates, a taxpayer would receive the same treatment regardless of his or her relationship with the tenant.

Mr. Chairman, Citizen's Choice believes one of the fundamental questions in the consideration of S. 31 is the basic right of the individual in our society. The interpretations of the Tax Reform Act of 1976 by the IRS which I have outlined cause one to wonder just who is in charge: Congress or the IRS?

This IRS interpretation presupposes the American taxpayer is guilty of puposeful avoidance of paying legitimate taxes. Citizen's Choice urges the Committee to consider that the American people have maintained a superior record of voluntary contributions to the United States Treasury. It is clear to us, however, that taxpayer frustrations with inconsistencies in existing law and questionable IRS practices threaten to undermine the willingness of citizens to comply with IRS regulations. These new quirks in IRS rules have already caused public outrage and can only serve to exacerbate citizen frustration with the system.

Mr. Chairman, confidence must be restored in the federal tax-collecting system. S. 31 is designed to be limited to a clearer statement of congressional intent. It is not designed to force limitations on IRS rulemaking authority.

Citizen's Choice supports the early enactment of S. 31.

Summary of testimony to be given by Charles E. Olson, NEA Legislative Specialist.

Teachers, along with other taxpayers, have been denied a tax deduction for that portion of their residence which is regularly and exclusively used to transact business at the direction of, or for the convenience of, their employer if the taxpayer has another "principal place of business." NEA recommends that S. 31 be amended to allow teachers to exercise the same tax rights that it will provide for other business and professional taxpayers.

Many teachers are required to meet parents and students, prepare and evaluate educational activities, and supervise and coordinate extra-curricular activities within their homes. These teachers dedicate a portion of their homes for exclusive and regular use on school business. Most of the activities accomplished in the teacher's residence are performed at the direction, or for the convenience, of their employer, since many buildings are closed shortly after school is dismissed because school systems are concerned about teacher safety as well as fuel consumption. Often teachers are directed to vacate school rooms at a certain hour--usually an hour after students leave the building.

NEA urges the Committee to include the phrase "students and/or their parents" in IRS 280A(c)(1)(B). This will eliminate any question as to whether teachers meet the fundamental test in section 280A.

The issue is one of equity, not preference. To exclude teachers, by design or oversight, will discriminate against one class of American taxpayers. If these changes are made, S. 31 will have NEA's strong and active support.

GOVERNMENT RELATIONS

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STATEMENT

OF THE

NATIONAL EDUCATION ASSOCIATION

ON S. 31

BEFORE THE

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

OF THE

SENATE COMMITTEE ON FINANCE

PRESENTED BY

CHARLES E. OLSON

LEGISLATIVE SPECIALIST

FEBRUARY 23, 1981

Mr. Chairman, I am Charles E. Olson, Legislative Specialist for the National Education Association. On behalf of our 1.8 million members, I am very happy to have an opportunity to testify before the Subcommittee on S. 31. NEA commends the sponsors' intent to make application of the tax code more equitable. However, we would like to make a few observations and suggestions to the Committee which we feel will make the bill applicable to teachers as well as to other taxpayers.

Attached to this statement is a copy of the NEA response to the regulations IRS proposed last year. I request that this be made a part of the record.

S. 31 will help those teachers who use their homes as the principal place of business for second income or summer work. Teachers, like many other citizens, are often forced to moonlight to make ends meet. S. 31 would allow these teachers--who are taxpayers, too--to deduct that portion of their residence which is used for the exclusive and regular purpose of storage of inventory, meeting clients, or managing their independent business.

As important as that needed correction in the tax law is, we urge you to go further. Teachers in every school district in America are concerned that IRS forbids a deduction of a home office even though they use office space at the direction or for the convenience of their employer. The 8,000 delegates to the 1980 NEA Representative Assembly adopted the following policy statement on the issue.

Tax Deductions for Teacher Home Office Expense

> The NEA shall seek changes in federal legislation to amend existing tax laws that presently deny teachers deductions for office and attendant expenses in the home. Such office and expenses shall be specifically permitted as deductions upon enactment of new legislation.

Many school systems encourage or require teachers to leave school buildings shortly after school is dismissed because the district wishes to conserve fuel and/or school buildings are considered unsafe after hours. This means that many teachers are forced to meet students and parents as well as prepare and evaluate educational activities in their homes. However, even though teachers' home offices are required by school districts or are convenient for the employer, tax laws and IRS rules do not allow teachers a tax deduction for the use of their homes for their business--fulfilling their educational responsibilities.

The Education for All Handicapped Children Act of 1975 (PL. 94-142) requires that Individual Educational Programs (IEPs) be prepared for many handicapped students. These IEPs require teachers and school counselors to work with local health officials, parents, and other persons who will supplement the educational program of the handicapped youngster. Since school buildings are often not available during the hours needed for consultation, teachers must meet their clients and other professionals in their homes. Most teachers understand that the activity is their professional responsibility but they don't understand why laws and/or rules prohibit them from claiming a tax deduction for the office space used for their required activities on a regular, exclusive, and continuing basis.

Teachers are also required to sponsor extracurricular activities. Many times, either school facilities are unavailable or it is not convenient

for the school system for these activities to be planned and carried out in the teacher's home, especially if the activity is a club meeting of a relatively small group of students. Again, teachers accept this as a part of their teaching duties but IRS and tax laws preclude any deduction of regularly used home facilities.

It might be useful for the record to illustrate what is required of teachers and why they must use their homes as a principal place of business. As you might expect, I do not view this issue clinically since I taught for ten years and used my home for school activities.

I have a good friend who teaches English to 160 inner city high school juniors. He is a teacher dedicated to helping his students learn to read and write. He teaches five classes each day, each with its own separate preparation since the students are "ability grouped." Each pupil is required to write a two page theme each week plus four or five book reports each semester. This means that in addition to 25 preparations he has over 320 pages of composition to evaluate each week.

Each teacher is accorded a 50 minute planning period. Most teachers use it productively, as does my friend. However, he spends three to four hours five nights a week working at home because the school building closes at 4:30 p.m. School officials are concerned about fuel costs so the heat is turned off at 4:00 p.m. Teachers are specifically "requested" to leave the building by 4:30 p.m. because the school district doesn't want to be responsible for teacher safety after that time.

My friend cannot claim a deduction for the room used exclusively and regularly to conduct his school business even though his activities at home are "for the convenience of his employer."

NEA strongly recommends that S. 31 be amended to add "students and/or their parents" to the list of persons who qualify a taxpayer under section 280 A(c)(1)(B) of the Internal Revenue Code. That section states that a deduction is available to taxpayers who use a portion of their home exclusively and regularly to meet "patients, clients, or customers." If S. 31 is enacted into law, it will significantly increase the number of taxpayers who qualify for a home office tax deduction. As the law currently stands, teachers probably will have a hard time satisfying the IRS that students and/or their parents fall within the definition of patient, client, or customer as set forth in section 280 A(c)(1)(B), even though one may construe students or their parents to be clients of the teacher. The amendment we propose will allow teachers to be treated equally with doctors, lawyers, health care practitioners, and other business and professional persons.

The issue is one of equity, not preference. Teachers are taxpayers who expect fair treatment by the federal tax code. They expect to be able to deduct an office if it is used exclusively and regularly at the direction of or for the convenience of their employers. To exclude teachers from this deduction discriminates against one class of American taxpayers. If these changes are made, S.31 will have NEA's active support.

NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D C 20036 • (202) 833-4000
WILLARD H. McGUIRE, President
BERNIE FREITAG, Vice President
MARY HATWOOD FUTRELL, Secretary-Treasurer
TERRY HERNDON, Executive Director

October 6, 1980

Commissioner of Internal Revenue
CC:LR:T (LR-261-76)
Washington, D.C. 20224

Re: Proposed Treas. Reg. §1.280A-2
(August 7, 1980)

Dear Sir:

The National Education Association ("NEA"), is an employee organization of approximately 1.8 million teachers employed in schools, colleges and universities throughout the United States. NEA respectfully submits the following comments regarding the proposed regulations and requests an opportunity to present comments orally at a public hearing regarding these proposed regulations.

1. Deductions for Business Use of Home - Prop. Reg. §1.280A-2 Generally.

Section 162(a) of the Internal Revenue Code allows deductions for ordinary and necessary expenses paid or incurred in carrying on any trade or business. Section 262 of the Code provides that no deduction shall be allowed for personal, living, or family expenses, except as otherwise provided. The expenses of maintaining a household are defined by Reg. §1.262-1 as personal, and therefore nondeductible, expenses. Section 280A generally disallows deductions for expenses incurred with respect to the business use of a taxpayer's residence, with certain exceptions.

The three exceptions pertinent to the following comments are set forth in section 280A(c)(1), which allows a deduction for an item of expense which is allocable to a portion of the dwelling unit which is exclusively used on a regular basis: (A) as the taxpayer's principal place of business; (B) as a place of business which is used by patients, clients, or customers in meeting or dealing with the taxpayer in the normal course of his trade or business; or (C) in the case of a separate structure which is not

attached to the dwelling unit, in connection with the taxpayer's trade or business.

The legislative purpose of section 280A was, in part, to provide definitive rules concerning deductions for expenses relating to business use of a taxpayer's residence in order to prevent deductions of expenses which are primarily personal in nature.

2. Principal Place of Business Exception.

The statute provides an exception for expenses allocable to the business use of a portion of a taxpayer's home which serves as his "principal place of business." As stated in the Preamble to the proposed regulations under section 280A of the Code, the proposed regulations do not follow the position of the Tax Court evidenced in Edwin R. Curphey v. Comr., 73 T.C. No. 61 (February 4, 1980). Rather, Prop. Reg. §1.280A-2 (b)(2) states that a taxpayer may have only one principal place of business for purposes of section 280A.

The Internal Revenue Service's interpretation of section 280A(c)(1)(A) is excessively restrictive and is not supported by the legislative history of section 280A. The legislative purpose of enacting section 280A was to prevent taxpayers from deducting expenses which are either essentially personal in nature or only marginally related to income producing activities. The statute does not deny deductions for ordinary and necessary expenses incurred in connection with the conduct of activity which may legitimately be characterized as a trade or business. A "principal place of business" is not the same as a "principal business." There is nothing in the legislative history which compels the Internal Revenue Service to adopt this unnecessarily broad interpretation of the statutory language.

A rule which limits a taxpayer to a single trade or business for purposes of section 280A fundamentally discriminates against persons engaged in seasonal or part time work. A seasonal worker may have one trade or business during one part of the year and a seasonal trade or business at other times. Similarly, when the earnings from one business or employment are not adequate to support a taxpayer's family, the taxpayer may seek a secondary source of income by engaging in a genuine trade or business on a part time basis.

Teachers are often in these circumstances. Because the normal school year is ten months, teachers frequently undertake substantial, independent business activities in the summer months. These activities may be the taxpayer's principal trade or business during that period of time. Also, because of the relatively low compensation paid to teachers, they often are impelled to work after school hours to make ends meet. These after-school activities may qualify as a trade or business.

In these circumstances, the proposed regulations will operate in a discriminatory fashion. Consider two taxpayers, each engaged in the same trade or business and each of whom uses his or her home for business purposes to the same extent. For example, both are part time sales people who store their inventory and keep their records in a room at home used exclusively for that purpose. Under the proposed regulations, however, one taxpayer will be entitled to a deduction for the business use of the home because he or she is not employed or engaged in a trade or business elsewhere. The other taxpayer, however, will be denied the same deduction because his or her primary employment is teaching school.

There is no mandate in section 280A requiring this result. The "principal business" rule is not germane to the purposes of section 280A -- which is to assure that the business use of the home is genuinely essential, not merely helpful or appropriate, to the conduct of the enterprise. The business use of a home may be essential to the enterprise and therefore the expenses of its operation should be deductible, regardless of whether the business in question is the taxpayer's primary or secondary source of income.

Accordingly, Prop. Reg. §1.280A-2(b)(2) should be modified to recognize that taxpayers often have more than one trade or business. As long as the home office is the "principal place" from which a trade or business is conducted, deduction of office expenses should be allowed under section 280A.

3. Use of Residence as a Meeting Place.

Section 280A(c)(1)(B) provides an exception for business expenses incurred which are allocable to a portion of a dwelling unit used exclusively and regularly as a place of business in which patients, clients, or customers meet or deal

with the taxpayer in the normal course of the taxpayer's business. Prop. Reg. §1.280A-2(c) states that this exception applies only if use of the residence as a meeting place is substantial and integral to the conduct of the taxpayer's business. This exception does not require that the taxpayer's home office constitute his principal place of business, but requires merely that it serve as a place of business.

The statutory exception lists three groups of persons with whom the taxpayer can meet in his home: patients, clients and customers. The legislative history does not indicate that the groups listed in this exception should be read narrowly. In light of the fact that each group is part of a professional relationship with the taxpayer, the section 280A proposed regulations should expressly provide that the groups listed in the exception are illustrative, not exhaustive. Students who come to the teacher's home for tutoring, for example, bear a similar, if not identical, relationship to their teacher/tutor as clients bear to their lawyers, or patients to their doctors. Consequently, teachers who open their homes for tutoring students and who otherwise meet the requirements of section 280A should be permitted to deduct expenses allocable to the portion of their homes devoted exclusively to and used regularly as a place for meeting students.

Respectfully submitted,

Maurice Joseph
Staff Counsel

Senator PACKWOOD. Fortunately, the same test of brevity is not applied to our speeches.

Thank you very much, gentlemen.

Lastly, we will hear testimony on S. 452, a bill introduced by Senator Boren.

We have as witnesses Mr. Barry Roth, Director of Government affairs for the Williams Cos., and Larry Fox, counsel, I assume.

On this bill, gentlemen, you do not want to oversell your case to this committee. As you are aware, we passed this last year and Treasury did not object it. At least the last Treasury had no objection to it. Mr. Fox, maybe you know what the position of the present Treasury is. I do not know. However, certainly this committee looks with favor upon this bill.

Please proceed.

STATEMENT OF BARRY N. ROTH, DIRECTOR OF GOVERNMENT AFFAIRS, THE WILLIAMS COS., ACCOMPANIED BY H. LAWRENCE FOX, COUNSEL, DAWSON, RIDDELL, FOX, HOLROYD & WILSON

Mr. ROTH. Thank you, Mr. Chairman.

My name is Barry Roth. I am director of Government affairs for the Williams Cos. With me, as you noted, is Larry Fox.

I am testifying on behalf of S. 452, a noncontroversial bill amending section 1246(a)(2) of the Internal Revenue Code to exclude from section 1246 treatment earnings and profits generated by a corporate taxpayer prior to its becoming a foreign investment company.

This technical amendment was originally drafted in 1980 with participation with the staffs of the joint committee and Treasury. Both have expressed their belief in the past that the amendment is appropriate and noncontroversial.

Daniel Halperin, then Deputy Assistant Secretary of the Treasury for Tax Policy, testified that the Treasury is not opposed to this amendment on April 25, 1980, before this subcommittee and on September 18, 1980, before the House Ways and Means Select Revenue Measures Subcommittee.

Section 1246 of the Code was originally enacted in 1962 to prevent certain tax avoidance arrangements involving mutual funds by treating the gain from the sale or exchange of stock or liquidation of a foreign investment company as ordinary income. Congress apparently did not consider the impact of section 1246 on earnings generated while a company was an operating company and therefore not a foreign investment company. We may now be faced with the unintended effects of this oversight.

Williams Bros. Overseas Co., Ltd., a 100-percent-owned Canadian subsidiary of Williams, was formed in the early 1950's and operated an international pipeline construction business until December 31, 1975, when it sold all of its operating assets. Except for the years 1964 through 1966, WBOCL qualified as a less-developed country corporation under section 1248(d)(3), whereby its earnings on repatriation would be taxed at the capital gains rate.

Since January 1, 1976, WBOCL has conducted no active business and its earnings—passive income from such things as time deposits—since that date have been subject to U.S. taxes, and taxes have been paid on those earnings at ordinary rates. Williams now de-

sires to liquidate WBOCL and utilize its assets in its U.S. operations.

Because WBOCL was a less-developed country corporation during most of the years before January 1, 1976, had it been liquidated prior to that date its earnings and profits for those years would have been repatriated at capital gains rates. Even though WBOCL is no longer an operating company or a less-developed country corporation, section 1248(d)(3) would still permit capital gain treatment of the less-developed country corporation earnings upon the liquidation today.

However, without the passage of S. 452, the same earnings and profits can be repatriated only at the risk that procedurally section 1246 would still apply and exclude earnings of a less-developed country corporation. Equitably amended, section 1246 would exempt from ordinary income treatment WBOCL's earnings as a less-developed country corporation. This would accord with the purpose of section 1246 and recognize WBOCL's reliance upon that section in generating revenues in less-developed countries.

The exclusion contained in S. 452 is consistent with sound tax policy in that it redresses an inadvertent omission by Congress in 1962. Its passage would prevent retroactive taxation at ordinary rates under section 1246 of WBOCL's earnings that are entitled to capital gains treatment under section 1248(d)(3). It would also permit the repatriation for use in the United States of earnings that it might not be prudent for us to repatriate otherwise.

Finally, since, as you pointed out, the substance of S. 452 has previously been unanimously approved by the Senate Committee on Finance, and was not passed by the 96th Congress solely due to a lack of time, we would hope that its passage would be expedited this year.

Thank you for this opportunity to testify again before you.

Senator PACKWOOD. Larry?

Mr. FOX. We have not heard from Treasury at this point. They simply have been understaffed and have not been able to look at anything like our proposal. However, we do not see that they would object to it.

Senator PACKWOOD. I don't recall an iota of objection last year from anybody. Was there any objection?

Mr. ROTH. No.

Mr. FOX. No.

[The prepared statement of Mr. Roth follows:]

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S. 452

To Amend the Internal Revenue Code of 1954
With Respect to the Treatment of Gain
on the Sale or Exchange of Foreign
Investment Company Stock

WRITTEN TESTIMONY

Presented to

The Senate Committee on Finance

Subcommittee on Taxation & Debt
Management Generally

February, 23, 1981

On behalf of The Williams Companies

by

Barry N. Roth, Director of Government
Affairs

The Williams Companies

and

H. Lawrence Fox
Dawson, Riddell, Fox, Holroyd & Wilson, P.C.
Counsel

Introduction

Summary

1. S. 452 introduced by Senators Boren (Oklahoma) and Heinz (Pennsylvania) amends section 1246(a)(2) of the Internal Revenue Code to exclude from section 1246 treatment earnings and profits generated by a corporate taxpayer while not a foreign investment company.

2. Passage will preclude the inequitable and unintended conversion of long term capital gains tc ordinary income treatment under section 1246 upon the sale or liquidation of certain stock.

3. Specifically, the amendment recognizes the fact that earnings subject to section 1248(d)(3) should not also be subject to section 1246.

4. H.R. 6442, an identical Bill introduced in the 96th Congress, was drafted in participation with the Staffs of the Joint Committee and Treasury. Both expressed the view that passage would be appropriate; and accordingly, it is noncontroversial.[1] S.2367, an identical Bill, was unanimously reported by the Senate Finance Committee during 1980 as section 3 of H.R. 6806.[2] Congress adjourned without H.R. 6806 coming up for a vote in either the House or the Senate, but that fact was due to lack of time and was unrelated to the provisions of this amendment.

Background

Section 1246

Section 1246 was enacted in 1962 to prevent certain

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1 Daniel I. Halperin, Deputy Assistant Secretary of the Treasury for Tax Policy, testified that the Treasury is not opposed to this amendment on April 25, 1980 before the Senate Finance Subcommittee on Taxation and Debt Management Generally and on September 18, 1980 before the House Ways and Means Select Revenue Measures Subcommittee on Taxation.

2 Hearings were held before the House Ways and Means Subcommittee on Select Revenue Measures on September 18, 1980 and the Senate Finance Subcommittee on Taxation and Debt Management Generally on April 25, 1980.

tax avoidance arrangements. It addresses transactions that were being employed by certain mutual fund companies which held only passive investments in foreign countries. The section prevents tax avoidance by treating as ordinary income any gain from the sale or exchange of stock in, or liquidation of, a foreign investment company.

As mutual funds do not conduct active businesses, Congress apparently did not consider the potential impact of section 1246 on earnings generated while a company was an operating company and not a foreign investment company. The Williams Companies ("Williams")[3] now may be faced with the unintended effects of the inadvertent failure to correlate section 1246 with other Code sections, in particular, section 1248.

Section 1248

Section 1248 was enacted to prevent tax avoidance by companies controlling foreign corporations which engage in business abroad. In general, it provides for dividend treatment of gain realized upon the sale or exchange of stock, or liquidation, of such a controlled foreign corporation. However, section 1248(d)(3) mandates that income from gain

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3 Williams is a diversified corporation with its principal subsidiaries primarily engaged in the chemical fertilizer, energy and metals businesses.

attributable to earnings and profits of a "less developed country corporation" (even if it is a controlled foreign corporation) between December 31, 1962 and January 1, 1976, is taxable at capital gain rates. This exception was added to section 1248 in 1962 to encourage U.S. business activity in less developed countries.

Williams Brothers Overseas Company, Limited

Williams Brothers Overseas Company, Limited ("WBOCL"), a 100%-owned Canadian subsidiary of Williams, was formed in the early 1950's and operated an international pipeline construction business until December 31, 1975, when it sold all its operating assets. Except for the years 1964 through 1966, WBOCL qualified as a less developed country corporation under section 1248(d)(3) for all years in which section 1248 provided the less developed country corporation exception.

As of January 1, 1976, WBOCL conducted no active business and had assets consisting primarily of a portfolio of foreign equity securities, notes from the purchaser of its pipeline construction business, and certain cash deposits. By the summer of 1976, WBOCL had disposed of most of its equity securities. Its assets now consist, essentially, of interest bearing Eurodollar time deposits, notes securing payment of the

purchase price of its business and notes of affiliated foreign companies of Williams.

Liquidation of WBOCL

Reasons for Williams To Liquidate WBOCL

WBOCL is no longer in the pipeline construction business or any other operating business. As Williams and its subsidiaries have a continuing need for substantial capital for their United States operations, Williams desires to liquidate WBOCL so that its funds can be used domestically. Williams does not contemplate liquidating WBOCL if section 1246 would apply to the earnings.

Tax Aspects -- Section 1248

Under section 1248, the amount received by a shareholder upon the liquidation of a controlled foreign corporation is treated as a dividend to the extent of the shareholder's share of the earnings and profits of the corporation accumulated after 1962. This imposes a U.S. income tax upon repatriation of a foreign subsidiary's income previously untaxed by the United States. However, section 1248(d)(3) provides in general that earnings and profits of a less developed country corporation accumulated during taxable years beginning before January 1, 1976 are to be excluded from the corporation's earnings and profits for purposes of computing dividends under section 1248.[4] Thus, the earnings and profits of a

4 Section 1248(d)(3) was amended by the Tax Reform Act of

foreign subsidiary attributable to its operation as a less developed country corporation receive capital gain, not dividend, treatment upon repatriation.

For the years before January 1, 1976 (excluding 1964 through 1966), WBOCL was a less developed country corporation, and, upon a liquidation during that time, its earnings and profits for those years would have been taxed at a capital gain rate upon repatriation. Even though WBOCL is no longer a less developed country corporation, section 1248 would permit capital gain treatment of the less developed country corporation earnings upon a liquidation today. But if section 1246 were to apply, the same earnings and profits could be repatriated only at the cost of treating the earnings and profits as ordinary income.

Tax Aspects -- Section 1246

Section 1246 provides that the gain on the sale or exchange of stock in a foreign investment company will be treated as ordinary income to the extent of a shareholder's ratable share of the accumulated earnings and profits of the company for taxable years beginning after December 31, 1962.

Footnote Continued from Previous Page
1976, P.L. 94-455, to provide that the less developed country corporation exception would not apply to earnings and profits of years beginning after December 31, 1975.

The ordinary income treatment of section 1246 applies to any gain attributable to post-1962 earnings and profits upon the sale or exchange of stock of a corporation that at any time after December 31, 1962 was a foreign investment company within the meaning of section 1246(b). Because the definition of a foreign investment company, for purposes of section 1246, is unclear, it is possible that WBOCL technically falls within the definition for the years following the sale of its pipeline construction business in 1975. Unlike section 1248, section 1246 does not provide an exception from ordinary income treatment for the earnings and profits of a less developed country corporation.

Tax Aspects -- Result

If at any time prior to its liquidation WBOCL were treated as a foreign investment company, Williams might recognize ordinary income upon the liquidation to the extent of all the accumulated earnings and profits of WBOCL -- even its less developed country corporation earnings and profits -- for all taxable years beginning after December 31, 1962. In other words, the earnings that qualified for capital gain treatment under section 1248(d)(3) as of December 31, 1975, might be retroactively taxed at ordinary income rates under section 1246 because of the procedural failure to exclude income treated under another Code section.

Reasons for Amending Section 1246

Legislative History

The legislative history of section 1246[5] shows that the intent of the section was to eliminate tax avoidance schemes employed before 1962 by certain mutual funds.[6] The mutual fund companies were publicly held and conducted no business other than purchase and sale of foreign securities.

Given the specific abuse by certain foreign investment companies to which section 1246 was directed, Congress apparently did not consider the possibility that an operating company that was a less developed country corporation might be treated as one of the targeted foreign investment companies. As a result, there was no study of the need to correlate section 1246's definition of ratable shares of earnings with the

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5 See H. Rept. No 1447, 87th Cong., 2d Sess. 5 (1962); President's 1961 Tax Recommendations, Hearings on the Revenue Act of 1962, H.R. 10650, Before the Comm. on Ways and Means, 87th Cong., 1st Sess., Vol. 1, at 35 (1961).

6 Until enactment of section 1246, earnings of foreign investment companies whose shares were held by U.S. citizens were never exposed to U.S. income tax (with the exception of income from U.S. sources). The companies typically did not pay dividends, and, upon sale of the stock by U.S. citizens, the proceeds, representing primarily the income of the companies, were taxable only at the U.S. capital gain rate. The purpose of section 1246 is to treat the gain as though it were a distribution of the income from the investments.

section 1248(d)(3) exception for earnings and profits of less developed country corporations such as WBOCL. Notwithstanding this technical oversight, it is clear that Congress did not intend to "entrap" less developed country corporation earnings by the application of section 1246. Therefore, an immediate technical amendment to prevent the retroactive application of section 1246 is consistent with the original intent of the section.

Equity Demands An Amendment to Section 1246

S. 452 contains a clarifying amendment to section 1246 to prevent its application to some of the proceeds of liquidation of companies like WBOCL.[7] The Staffs of the Treasury and Joint Committee have expressed the belief that passage would be equitable and consistent with sound tax policy. Properly amended, section 1246 would exempt from ordinary income treatment WBOCL's earnings as a less developed country corporation. Such result is in accord with the purpose of section 1246 and recognizes WBOCL's reliance upon section 1248(d)(3) in generating the earnings in less developed

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7 The amendment would not provide capital gain treatment to earnings not otherwise qualifying for capital gain treatment. For example, its passage does not grant capital gain treatment under the less developed country corporation exception for WBOCL earnings and profits accumulated after December 31, 1975. Income of WBOCL after 1975 has been subject to Subpart F and to taxation at ordinary income rates.

countries.

Had WBOCL been liquidated in 1975, section 1248(d)(3) would have expressly provided for capital gain treatment of its earnings and profits. The proposed amendment would ensure that the same earnings attributable to active business operations in a less developed country between 1962 and 1976 would not be converted into ordinary income under section 1246 simply because the liquidation occurs after 1975.

Obviously, the amendment will prevent a detriment to any taxpayer having earnings that should not be subject to section 1246. But the rationale for a clarifying amendment applies even more strongly in WBOCL's case when one considers that the repeal of the less developed country corporation exception in 1976 was prospective; and therefore, its lapse should not have a bearing on the treatment of WBOCL's pre-1976 earnings.

One additional point requires clarification. While this amendment has an associated revenue loss, passage of the amendment will, in fact, produce a revenue gain for the Treasury. This is so because the retained earnings and profits of a company such as WBOCL are not subject to taxation until repatriated. However, repatriation is difficult, if not impossible, for management to justify when profits entitled to capital gains treatment at the time they were earned, would

instead be subject to taxation at ordinary income rates. Thus, passage of this amendment permits the repatriation of earnings and their subjection to U.S. taxation that otherwise is unlikely to occur, thereby increasing revenues for the Treasury.

Conclusion

As described, S. 452's equitable nature is clear: redressing an inadvertent omission made by Congress in 1962, generally preventing a retroactive tax under section 1246 and particularly preventing such a retroactive tax upon earnings properly subject to section 1248(d)(3). Finally, since the substance of S. 452 has previously been unanimously approved by the Senate Finance Committee and was not passed by the 96th Congress because of a lack of time, its passage should now be expedited.

Senator PACKWOOD. I did not think so.

I would assume we will have success this year. I hope we do. The case is merited. I do not know if any other companies fall within this provision. If inequity has been done, then there is nothing wrong with a bill that rights that inequity. That is one of the purposes of this Congress. If that be special interest legislation, why then so call it. If we can right a wrong with a piece of legislation, I would support it.

Thank you, gentlemen.

[Whereupon, at 11:45 a.m., the subcommittee recessed.]

[By direction of the chairman the following communications were made a part of the hearing record:]

THEODORE D. LEHMANN
186-24 MIDLAND PARKWAY
JAMAICA ESTATES, N. Y. 11432

February 18, 1981

Robert E. Lightlizer
Chief Counsel
Committee on Finance
United States Senate
2227 Dirksen Senate Office Bldg.
Washington, D.C. 20510

Dear Mr. Lightlizer:

I would like this letter to be considered as a written statement regarding two pieces of legislation currently being considered by subcommittees of the Committee on Finance.

Regarding S.31, before the Subcommittee on Taxation and Debt Management, I would like the subcommittee members to know that removing limitations on deductibility of business expenses related to use of the home as a second place of business would tend to improve the tax burden on many Americans who already devote a portion of their home to the reading and preparation of work-related reports. These deductions were disallowed some years ago for taxpayers who have an office available at the place of employment. The main groups of taxpayers who continue to be allowed this deduction are "outside salesmen", physicians, dentists, and attorneys maintaining their practice in their home. These groups have sufficient other deductions, and in general receive a favored class treatment. In recent years the energy conservation measures encouraged by government, such as car pools and timely closing of

office buildings, have caused undue hardship on many employed professionals, educators, and executives who can not easily stay late at their company or school offices. The restoration of tax deductions for offices at home would encourage more citizens to use car pools and public transportation. Much reading and report writing could be done at home with a negligible increase on energy consumption at home. At present there is no incentive to travel in a car pool, or use public transportation, and instead the tax laws encourage people to do more of such work in their offices - which in turn adds to the number of solo drivers on the highways, in turn adding to the drain on our nation's energy resources. Senator Armstrong is to be commended for his concern and his attempt to correct this situation.

Regarding S.12, before the Subcommittee on Savings, Pensions, and Investment Policy, I would like to commend Senator Dole for introducing a tax bill that would help offset the inequitable tax treatment of married couples. The ability to make tax-deductible contributions to an individual retirement account would be of particular help to the many two-paycheck families who desperately need some tax relief. Also, employer-sponsored retirement plans will be woefully inadequate if inflation continues. The ever-decreasing percentage of disposable income that two-paycheck families are placing into savings accounts give ample testimony to not only the economic troubles such families have because of the general economic picture, but also to the poor motivation such families have to save because under the present tax laws the interest on savings merely add to their tax burden.

I appreciate the opportunity to have my views submitted to the respective Subcommittees.

Sincerely,

Theodore D. Lehmann

COMMUTER POOL

VANPOOLS
BUSPOOLS
RIDEMATCHING
FLEXIBLE WORKING HOURS
PARKING MANAGEMENT

February 19, 1981

The Honorable Robert Packwood
Finance Committee
U.S. Senate
2227 Senate Office Bldg.
Washington, DC 20510

Dear Senator Packwood:

This letter is offered as testimony in support of Senate Bill 239, the Commuter Energy Efficiency Act, and offered in support of an amendment to that legislation.

About the Writer

Seattle/King County Commuter Pool is a subregional ridesharing program serving the jurisdictions in and around King County, Washington. The program started in 1974, and it includes: ridematch assistance, parking management, a public vanpool program, flexible work hours promotion, joint utilization of vans with social service agencies, technical assistance for individuals and for employer ridesharing programs, incentive development, informational services and marketing, and local regulatory reform efforts. Commuter Pool was cited in 1979 by the President as one of three national Showcase Ridesharing Programs featured at the inception of Initiatives in Ridesharing.

Conservation and Ridesharing

The transportation sector of this nation is extremely dependent upon petroleum fuels. The slight shortages of petroleum we have glimpsed in the last seven or eight years have awakened us to the grim reality that a deep and prolonged shortage could paralyze this country. Even slight shortages threaten to stifle the ability of our economy to grow and to remain vital.

Conservation, through the increased productivity of ridesharing, facilitates growth in a time of restricted fuel supply and dampens the paralyzing impacts of shortages. Ridesharing and mass transit utilization by commuters are, in large part, the keys to conservation in the transportation sector. Twenty percent or more of the commuting workforce currently rideshare. This participation is largely a result of success, at both state and national levels, in removing the legislative, regulatory, institutional, and attitudinal barriers--in both public and private sectors--which constrained ridesharing development throughout the 1970's. The challenge now before us is to involve more and more Americans, particularly employers, in voluntary conservation, by means of incentives.

SEATTLE/KING COUNTY
COMMUTER POOL
Arctic Building, Room 530
704 Third Avenue
Seattle, Washington 98104
(206) 625-4500

Need for Incentives

A fuel crisis or extreme price hikes would eventually force commuters to depend on ridesharing and mass transit, but more extensive utilization of ridesharing and mass transit now can postpone the painful and discriminatory price hikes, and possibly the crisis of shortage itself. Mandating ridesharing and mass transit utilization is out of the question. Even if obedience were assured, government could not afford to provide the capital and machinery to transport 100% of our workforce.

Private sector ridesharing utilizes the existing capital and vehicle infrastructure. Ridesharing is an example of people--employers and employees, individuals or organizations--combining efforts to solve their own transportation-energy problems. They do so without the burdens of regulation. They do so effectively, saving energy to benefit other Americans and eliminating the need for large government expenditures, hence tax burdens on other Americans.

Ridesharing is an ideal nongovernmental solution to a pressing problem. For the benefits which can be realized from the participation of more and more commuters in ridesharing, inducements to rideshare should be offered. The barriers to ridesharing have been removed. The remaining step needed to realize the full potential of ridesharing is to provide substantial incentives to sponsors and participants, and to market those incentives to the public.

The Incentives of S.B. 239

Everything contained in S.B. 239 provides or facilitates an important incentive to rideshare. Four points are addressed here, in order of special importance to Commuter Pool.

First, Section 201, Qualified Transportation Excluded From Gross Income, is of primary importance in this legislation. If the amount of any subsidy by an employer to an employee and the amount of any delivery cost of that subsidy is taxable income to the recipient employee, employers will balk at the added paper trail and accounting required to meet the requirements under existing tax laws. Would-be recipients of the subsidies will be reluctant to have these employer subsidies and delivery costs increase their personal income taxes. As a practical matter, marketing ridesharing to employers and employees is handicapped and constrained by the inclusion of these subsidies and delivery costs in the gross income of the recipient. Not only will the income exclusions of Section 201 provide a real, economic incentive for ridesharing and transit subsidies, but they remove a practical handicap to successful marketing efforts. It is further important that this section recognizes the importance of subsidies to all modes, and includes them, in order to have a broad and effective program.

Second, Title V - Gasoline Tax Deduction is a key incentive, from a reinforcement point of view. Each time a carpool or vanpool operator fills his tank, he will be reminded that part of that ever-growing gas bill will be refunded as a reward for his daily efforts to provide rides for others and to ease the consumption of that fuel. The dollar amount of the incentive may be small, but the psychological value is very high.

Third, Washington state has made extensive efforts to promote vanpools operated by individuals. Eighty percent of Washington's employers are "small businesses." Not all are by any means in a financial position to provide vanpools or other subsidies to their employees. Joint programs among small employers are being considered, but these require extra coordination. A large portion, then, of Washington's workforce must rely upon their own initiative to participate in ride-sharing. When an individual faces a $15,000 investment in a vanpool in these times of high interest, not only does an incentive seem an appropriate reward, it is quite a necessary requisite. When the solution to our energy-transportation problems is shifted smoothly to individuals in this manner, the maximum flexibility and independence will be achieved with the minimum of government intervention and cost.

Fourth, Section 303 excludes driver incentive mileage from the mileage considered under the "80/20" rule when determining qualification for the investment credit. This is a very positive step, but it does not go far enough.

The 80/20 rule should be eliminated completely, because: 1) it is a redundant safeguard, and 2) it causes inefficient utilization of capital and vehicles. The Treasury Department initiated the 80/20 rule to prevent a business from purchasing a van, claiming the commuter highway vehicle investment credit, and then utilizing the vehicle for business purposes.

So long as the vehicle is used for the required 3-year period to transport commuters according to the intent of the law, the auxiliary uses should be of no importance. If the auxiliary use is so substantial that the vehicle wears out prior to three years of commute use, the normal investment tax recapture provisions will recover the investment credit and act as a safeguard.

Without the 80/20 rule, the employer must show proper utilization of the vehicles by commuters. With the 80/20 rule, the employer must show, in addition, detailed mileage records and show that the vehicle spent a majority of its time sitting idle and depreciating. Not only does this result in a recordkeeping fiasco, but the inefficiency is repugnant to business.

The other sections of this legislation are also important. Respecting your committees time and important work, we reserve more detailed remarks on those sections. Please accept our thanks for this opportunity to share our operational experience and our opinions with you.

Sincerely,

William T. Roach
Program Manager

WTR:jvd

VIRGINIA MASON HOSPITAL

February 19, 1981

Mr. William T. Roach, Program Manager
Seattle-King County Commuter Pool
Arctic Building, Room 600
704 Third Avenue
Seattle, WA 98104

Dear Bill:

I have had the opportunity to review some of the changes proposed by Senator Dave Durenberger to the 1978 energy tax act. As an employer of over 2000 healthcare employees, Virginia Mason Medical Center is deeply committed to any program which promotes or supports more effective means of transportation for our employees, and others who share the commuting routes with us. We wish to express our support of the senate bill 239, and ask that you forward this expression of support to Senator Packwood's finance committee and to Senator Durenberger.

Specifically, we see a number of incentives for our employees to form vanpools in addition to the five we currently operate through the Seattle-King County Commuter Pool. Tax credits to individuals would definitely promote formation of vanpools, and lead to greater acceptance of this mode of transportation. Other provisions proposed will lead to greater support by businesses for their employees. This concerted effort, supported by this legislation, will have a significant impact on energy consumption, highway traffic, and personal safety of those who formerly drove alone.

We wish to express our appreciation to the members of the senate for their efforts to promote more energy-efficient transportation for those who commute in the United States.

Yours sincerely,

Dick Jones
Assistant Administrator

925 Seneca Street, P.O. Box 1930, Seattle, Washington 98111 [206] 624-1144

SAFECO

SAFECO INSURANCE COMPANIES
SAFECO PLAZA
SEATTLE, WASHINGTON 98185

TELEPHONE (206) 545-5000

February 19, 1981

Mr. William T. Roach
Program Manager
Seattle/King County
Commuter Pool
Arctic Building
Room 600
704 Third Avenue
Seattle, WA 98104

Dear Mr. Roach:

Beginning in April of 1980, SAFECO Corporation, a Seattle-based insurance company employing 7,000, initiated two vanpools in its home office area of Seattle, Washington. We currently plan six additional van pools with two located in Oregon and one in California.

Our rationale for supporting this type of ride-sharing activity is consistent with our philosophy of energy conservation initiatives for employees. Any legislative encouragement that worked in concert with private industry or governmental vanpooling programs would be looked upon favorably by SAFECO.

SB 239 seems to be consistent with our energy conservation efforts. We would encourage its serious consideration by members of Congress.

Sincerely,

Gordon C. Hamilton
Assistant Vice President

GCHnd

SEATTLE-FIRST NATIONAL BANK PUBLIC AFFAIRS DEPARTMENT

WALLIS W. ADAMS
Vice President and Manager

February 19, 1981

The Honorable Bob Packwood
1321 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Senator Packwood:

Seattle-First National Bank would like to express its support for Senator Durenberger's "Commuter Transportation Energy Efficiency Act of 1981", S. 239.

In November of 1979, Seattle-First became the largest corporation in America to offer its employees full subsidization of their public transportation expenses. Over 3,000 of our employees are taking advantage of this program, which is successfully cutting urban traffic and parking congestion, increasing commuting convenience and cost saving for our staff, and saving 750,000 gallons of fuel and over 12,000,000 automobile miles annually.

In view of the success we have enjoyed in getting our staff to save energy, it seems all the more unfortunate that they must report this transit subsidy as income. They do not understand, much less appreciate, why they should have to pay tax on an energy-saving gesture by this corporation. Furthermore, the tax reporting procedures that this entails are a very large operational headache for us.

Senator Durenberger's bill will rectify this unfortunate disincentive that our employees must deal with, and we therefore give it our full support. In addition, as an amendment to this bill we would propose that this sort of transportation subsidy we are offering be excluded from our total FICA tax base. This would serve as a great incentive to other corporations to follow our lead in implementing energy-saving transportation programs for their employees.

Sincerely,

Wallis W. Adams
Vice President & Manager

WWA:pl

cc: The Honorable Dave Durenberger
The Honorable Robert Dole

1001 FOURTH AVENUE / POST OFFICE BOX 3586 / SEATTLE, WASHINGTON 98124 . TELEPHONE (206) 583-4193

ROBERT R. BARNITT
Vice President - Personnel

Unigard
Insurance Group

February 19, 1981

Seattle King County Commutor Pool
704 Artic Building
Third Avenue
Seattle, WA 98101

ATTN: Mr. William T. Roach, Program Manager

Dear Bill:

I am happy to lend my support to Senate Bill 239.

As Vice President of Personnel for Unigard Insurance Company, a company active in enerty conservation, I urge passage of this bill.

For over a year now we have been subsidizing Van Pools (2), a subscription bus (37 passengers), public bus riders (175) and car poolers (121).

While we have and will continue to support this without tax credit, we believe this credit would encourage other companies. Also the possible individual tax credit would be of great help to many individuals.

Please pass my letter on to Senator Durenberger and extend my thanks to Senator Durenberger and his co-sponsors for their efforts in this important area.

Sincerely,

R. R. Barnitt

RRB/kdp/1050

February 18, 1981

Mr. William T. Roach
Commuter Pool
Room 600, Arctic Building
704 3rd Avenue
Seattle, WA 98104

Subject: Senate Bill 239

Dear Bill:

I am writing to you in support of Senate Bill 239 introduced to the Finance Committee of the U.S. Senate by Senator Dave Durenbeger in hopes you will forward my letter to the appropriate body considering this legislation.

As a participating vanpooler I am very happy with the commuting arrangements I now enjoy. I was able to avoid the purchase of another automobile which would have been necessary when I changed jobs. Furthermore, I estimate that my family, since I no longer drive to work, is conserving about 40 gallons of gasoline per month. This savings is not only more money in my pocket but also serves the best interests of my community and country in terms of energy conservation.

As a City Traffic Engineer, I realize more and more the impact that commuter travel has on the existing transportation system. It seems foolish to spend valuable dollars to accommodate peak surges of demand which occur during a period of about four hours during the 24-hour day. However, the peak hour problem has an astronomical impact on our mobility, environmental health and economic well being. Consequently, the problem must be addressed. It appears to me heavy emphasis should be given to reducing vehicle demand as opposed to providing additional capacity. Vanpooling has indicated that it is a viable solution to this problem while at the same time maintaining individual mobility which is so important.

I personally believe that the five elements of the proposed legislation, although not providing the total solution, would take a very positive step to encourage the development of more vanpools. I respectfully request serious consideration of the proposed legislation. Let's take a positive step forward.

Very truly yours,

Gary A. Norris, P.E.

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DANIEL C. SMITH
HERBERT F. STEVENS
BONNIE B. TEMPLE
JOAN C. WILLIAMS

HARRY K. SCHWARTZ
OF COUNSEL

February 23, 1981

The Honorable Bob Packwood
Chairman, Subcommittee on Taxation
Senate Committee on Finance
227 Dirksen Senate Office Building
Washington, D.C. 20510

Re: S. 31 -- Amendments to Section 280A of the Internal Revenue Code

Dear Senator Packwood:

As part of the consideration today by the Subcommittee on Taxation of the Senate Committee on Finance of S. 31 proposing amendments to section 280A of the Internal Revenue Code, dealing with the personal use of a residence or vacation home, we would like to recommend a technical correction to that section.

It has come to our attention that the language in §280A(d)(2) which states that a taxpayer shall be deemed to have used a dwelling unit for personal purposes for a day if he uses it for such purposes "for any part of such day," is being interpreted in a very literal fashion by the Internal Revenue Service. See proposed Regulations §1-280A-1(e). If, as is common, an individual arrives at his vacation home at 11:00 p.m. after a full day of traveling, this day of traveling is actually counted as a day of personal use of the home for purposes of his maximum allowed stay of 14 days or 10% of the number of days rented.

The same problem occurs upon his leaving as well. If he leaves at 6:00 a.m., he is still considered to have used his home for the full day, regardless of the fact that he and his family spent all of the daylight hours in his car, driving back home.

Although we do not think Congress intended this result, it appears from the Internal Revenue Service's interpretation, that a technical legislative amendment is necessary. We would urge the Committee to make clear, therefore, that the rule whereby any part of a day is considered a full day of use should not apply to the day of arrival and the day of departure. Such an amendment is also part of S. 444 (Section 504) introduced by Senators Williams and Cranston in this session, and we would urge your consideration of that aspect of this fine bill.

We also support the other amendments to section 280A contained in S. 31. These amendments provide that use by a family member of a residence will not be considered personal use by the taxpayer. A similar amendment is also contained in S. 444, to cover the situation where the family member pays a fair rental and uses the home as his principal residence.

This whole subject of the family rental tax has been treated in an amusing and pointed satire, entitled "Famscam", which was sent to us and which we would like to enclose for your information.

Thank you for the opportunity to present our views to the Subcommittee. We would appreciate haveing this letter and the enclosure appear as part of the record of the Subcommittee's hearing.

Sincerely yours,

Bruce S. Lane

BSL:ds
Enclosure
cc: (with enclosure)
All Members Senate Committee on Finance
✓Robert Lighthizer, Esquire
Edward J. Hawkins, Esquire
Rod DeArment, Esquire

Note: The attached letters generally refer to S. 3030 which was the file number assigned to the Commuter Transportation Energy Efficiency Act in the 96th Congress.

VICTOR ATIYEH
GOVERNOR

OFFICE OF THE GOVERNOR
STATE CAPITOL
SALEM, OREGON 97310

September 18, 1980

The Honorable David Durenberger
United States Senator
353 Russell Senate Office Building
Washington, D. C. 20510

I would like to lend my support for the concepts contained in your Commuter Transportation Energy Efficiency Act. The provisions of S. 3030 will go a long way toward encouraging companies and individuals to participate in ridesharing activities.

I will be proposing to the Oregon Legislature a ridesharing package as part of my special energy program. This package will include some state-level incentives. S. 3030 will provide on a national scale the types of incentives that will help ridesharing become an effective tool in meeting our energy self-sufficiency objectives.

Sincerely,

Victor Atiyeh
Governor

VA:rn

cc Senator Mark O. Hatfield

STATE OF NEW MEXICO
OFFICE OF THE GOVERNOR
SANTA FE
87503

BRUCE KING
GOVERNOR

January 16, 1981

The Honorable David Durenberger
United States Senate
Washington, D.C. 20510

Dear Senator Durenberger:

Thank you for giving the State of New Mexico an opportunity to review S. 3030, the Computer Transportation Energy Efficiency Act. This measure has been reviewed by the New Mexico Energy and Minerals Department which shares your belief that this bill has the potential to significantly increase ridesharing activities in our nation.

We especially support the Title IV Section of the bill that would provide a business tax credit for costs incurred in administering an employee ridesharing program. Studies have shown that employer-sponsored ri sharing programs have the greatest success in encouraging employees to part cipate in a carpool or vanpool program.

Although the bill was not taken up during the last session of Congress, it is my understanding that you plan to introduce a similar bill during the 97th Congress. In light of our nation's unstable petroleum supply situation and the rising price of fuel, I can think of few issues that are more timely than the one which you are addressing.

Your bill as proposed has the full support of this office. I am taking the liberty of forwarding copies of this letter to all members of New Mexico's Congressional delegation for their consideration.

Your interest in contacting New Mexico is appreciated. If you feel further information might be helpful, please do not hesitate to contact us.

Sincerely,

Bruce King

BRUCE KING
Governor

BK/lk

cc: The Honorable Pete Domenici, United States Senate
The Honorable Harrison Schmitt, United States Senate
The Honorable Manuel Lujan, Jr., United States House of Representatives
The Honorable Joe Skeen, United States House of Representatives

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION
RALEIGH 27611

JAMES B. HUNT, JR.
GOVERNOR

THOMAS W. BRADSHAW, JR.
SECRETARY

January 15, 1981

The Honorable David Durenberger
U. S. Senate
Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Durenberger:

Let me share with you that North Carolina is very active in its efforts to promote ridesharing. We applaud your efforts to have Congress pass legislation that will improve the economic and regulatory environments for ridesharing. Governor Hunt appointed a State Ridesharing Task Force composed largely of business and civic leaders throughout the State. Our Task Force, among other tasks, has been reviewing North Carolina State law to determine where changes might be made to assist ridesharing. We will be requesting these legislative changes in this session of our General Assembly.

The North Carolina Task Force endorses S. 3030 and encourages you to continue to work for its passage. I will be in touch with the North Carolina delegation to let them know of our interest in this legislation.

Sincerely,

Thomas W. Bradshaw, Jr.
Secretary

TWBjr/ag

AtlanticRichfieldCompany Public Affairs
515 South Flower Street
Mailing Address: Box 2679 - T.A.
Los Angeles, California 90051
Telephone 213 486 0775

S. J. Giovanisci
Manager
Public Relations Operations

January 22, 1981

The Honorable Dave Durenberger
United States Senate
Committee on Finance
Washington, D.C. 20510

My dear Senator Durenberger:

The Atlantic Richfield Company's ridesharing program has been a great success, and has gone a long way toward improving employee morale and saving energy. I have been deeply involved in this program, and can assure that the Company's success has been directly attributable to the incentives we offer employees for participating. Senate Bill S.3030, The Commuter Transportation Energy Efficiency Act, will add incentives that will stimulate more ridesharing in the private sector.

I also serve as Chairman of the Board of Commuter Transportation Services, Inc., the largest and most effective ridesharing organization in the country. Again, from that position I can assure you that Senate Bill S.3030 is important to ridesharing--and ridesharing is important to the country.

Sincerely yours,

S. J. Giovanisci

SJG:lld

The Prudential Insurance Company of America
Prudential Office - Research Center
155 Moffett Park Drive
Suite 101, Bldg. A
Sunnyvale, California 94086
Tel. 408-734-2530

Lee Cashion
General Manager,
Real Estate Operations

January 29, 1981

Hon. Dave Durenberger
U. S. Senator, Committee on Finance
U. S. Senate
Washington, D.C. 20510

Hon. Durenberger:

We have reviewed the objectives of Senate Bill S3030, Commuter Transportation Energy Efficiency Act and are in wholehearted agreement. Specifically, we are developers of Moffett Industrial Park in Sunnyvale, California which currently has 15,000 employees including Lockheed Missiles & Space Company, Ford Aerospace & Communications Corp., General Electric Company, Atari, Inc., ESL Incorporated and Control Data Corporation and many others.

Our major problem is the crush of automobiles during the morning and evening commutes. The tax credits and relief granted in S3030 will stimulate employees and employers to increase ride-sharing in all forms.

Lee Cashion,
General Manager,
Real Estate Operations
THE PRUDENTIAL INSURANCE COMPANY OF AMERICA

VANGO

airport investment building • suite EX1000 • linthicum • maryland 21090 • (301) 796-Pool
F-200

January 27, 1981

Senator David Durenberger
Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Durenberger:

The State of Maryland supports an active Ridesharing Program of which vanpooling is a vital element. Through VANGO, Inc., a third-party broker and vanpooling promotion agency, all types of vanpools are encouraged and facilitated.

We of VANGO would like to lend our support to your bill, the Commuter Transportation Energy Efficiency Act of 1980 (S.3030).

An outline of your bill was distributed to the 270 drivers of Maryland vanpools who represent a total of 3,834 interested vanpoolers. In addition, employers who sponsor ridesharing programs were also contacted for their opinion.

The consensus was overwhelmingly positive in favor of the passage of S.3030 even though the majority of our vanpools in Maryland are leased by individuals.

Naturally, if additional benefits could be developed to offer more incentives to drivers and passengers of privately leased vanpools, even greater support could be expected.

Maryland vanpools conserve an estimated 1,300,000 gallons of gasoline annually, and your legislation could serve to stimulate even more interest in Maryland ridesharing.

Thank you for the opportunity to comment on this important legislation. We strongly support its enactment, and will provide copies of this letter to Maryland representatives in the hopes they will lend their support to S.3030 also.

Sincerely,

for John J. Clark
President
Board of Directors

JJC:bka

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
ENERGY CONSERVATION AND MANAGEMENT DIVISION

BRUCE KING
GOVERNOR
LARRY KEHOE
SECRETARY

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330 N. RICHARDSON
ROSWELL, NEW MEXICO 88201
(505) 623-6010

January 13, 1981

The Honorable Dave Durenberger
United States Senate
Washington, D. C. 20510

Dear Senator Durenberger:

I have recently revieved the provisions of Senate Bill 3030, the Computer Transportation Energy Efficiency Act. Upon careful examination of the contents of this act, I believe that passage of it would greatly stimulate ridesharing activities. I especially applaud the Title IV Section that provides a business tax credit for costs incurred in organizing and administering an employee ridesharing program. Studies have shown that employer-sponsored ridesharing programs have the greatest effect in terms of significantly increasing the percentage of employees participating in a carpool or vanpool program. With such a powerful incentive as your bill provides, it is hopeful that many more employers will follow the lead of 3M and take an active part in establishing and administrating a ridesharing program for their employees.

I look forward to the passage of this worthwhile act. If I can provide further assistance in support of your efforts to eliminate barriers to ridesharing, please feel free to contact me.

Sincerely,

Claire Karam

CLAIRE KARAM
Transportation Planner

CK:lm

P. S. I just noted in the Congressional Record Statistics that New Mexico was listed as having 10 vans in operation. Our latest count shows 36 vans funded through the State Highway no-interest loan program.

County of Santa Clara
California

Transportation Agency
1556 Berger Drive
San Jose, California 95112

January 14, 1981

Honorable David Durenberger
United States Senate
Committee on Finance
Washington, D.C. 20510

Subject: Senate Bill S. 3030

Dear Senator Durenberger:

Thank you for keeping me informed of the progress of Senate Bill S. 3030. Some thoughts on certain features of the bill follow.

Through personal contacts with several hundred Executive Managers over the last four years in promoting our County Carpool Program, I am acutely aware of two factors that, if either is present, normally increase the interest level in ridesharing by the commuting public. One is a gas crisis and the other is top management support which is sometimes difficult to obtain. I heartily endorse S. 3030 because most of the reasons for an employer's reluctance to initiate, support or sustain a rideshare program will have been removed through the Business Tax Credits of Titles III and IV.

Inherent in tax credits is a sense of permanency and continuance in that to receive them, they must be claimed on an annual basis. Many employers in this County have supported rideshare programs and initiated the necessary actions, but too few seem to sustain these efforts. A policy of continuance should be part of all rideshare programs because these comprise the majority of the programs that provide the sustaining effort needed to reduce our dependence on foreign oil. The tax credits may prove to be the most effective incentive for establishing permanent and ongoing rideshare programs.

I am looking forward to early adoption of Senate Bill S. 3030.

Sincerely,

Fred W. Cronn
Rideshare Representative
Santa Clara County Transportation Agency
1555 Berger Drive
San Jose, CA 95112

FWC:jmg

MIDDLETOWN TRANSIT DISTRICT
MUNICIPAL BUILDING
deKOVEN DRIVE MIDDLETOWN, CT 06457

January 8, 1981

The Honorable Dave Durenberger
United States Senate
Committee on Finance
Washington, DC 20510

Dear Senator Durenberger:

Thank you for your recent letter in which you updated the status of S.3030, the Commuter Transportation Energy Efficiency Act.

The Middletown Transit District would like to express its wholehearted support for this bill. Although we have just recently implemented a long-awaited local bus service and consider the operation of that service to be our foremost responsibility, we are also looking to the near future when we will become more actively involved in the promotion of ridesharing. The provisions of your bill, if adopted, will be an added incentive to encourage our residents to take that extra step in conserving energy. Hopefully, by the time your bill becomes law, we will be in a position to aggressively assist our local employers and individual employees in their efforts to understand and benefit from its provisions.

Because we expect to become actively involved in the eventual implementation of your proposed law, we would appreciate it if you would continue to keep us informed of its progress. Copies of this letter are being sent to the Connecticut Congressional delagation to let each member know of our support for and interest in this bill. We will also do what we can to generate additional support here in Middletown.

Sincerely,

Karen L. Olson

Karen L. Olson
Transit Administrator

KLO/ss

SAVING ENERGY

OFFUTT VANPOOL INC.

REDUCING TRAFFIC CONGESTION

OFFUTT AIR FORCE BASE, NEBRASKA 68113 • PHONE (402) 294-3571

Honorable Dave Durenberger
U.S. Senate
Washington, DC

22 January 1981

Dear Senator Durenberger

The Board of Directors and members of the Offutt AFB, VanPool Corporation strongly support your continuing efforts to introduce ridesharing legislation in the U.S. Senate. We wish to thank you, both for your concern over the energy problems that are today facing our nation, and your ongoing efforts to help find a solution to these problems.

We are convinced that increased ridesharing offers the only practical solution to the problem of reducing national gasoline consumption and resultant U.S. dependency on the importation of foreign oil. It is through the efforts of legislators such as yourself that we will progress towards a workable solution to the nation's problem.

Your recommended legislation appears to address many of the problems that are barriers to effective vanpooling programs, both corporate and individually sponsored. While your "Commuter Transportation Energy Efficiency Act" does not offer an answer to the many stumbling blocks that we in the Offutt VanPool Corporation face as a private non-profit corporation; we do, however, believe your proposed bill may establish a federal precedence which may in turn encourage state governments to remove local regulatory barriers that impede our ridesharing program.

We desperately need the support of both federal and state governments in providing non-profit vanpool corporations with financial relief from federal/local gasoline and excise taxes; and state/city sales, and property taxes, and vehicle registration/licensing fees.

Please keep our organization appraised of your future plans and accomplishments and we in turn will provide you with whatever support we can.

Sincerely,

DONALD L. KALISEK
Member, Board of Directors
Offutt AFB, VanPool Corp.

Cy to: Honorable James J. Exon
U.S. Senator, Nebraska

Honorable Edward Zorinsky
U.S. Senator, Nebraska

ARKANSAS

DEPARTMENT OF ENERGY

3000 Kavanaugh • Little Rock, Arkansas 72205
Phone: 501-371-1370

Frank White
Governor

Cherry Duckett
Acting Director

January 29, 1981

Honorable David Durenberger
U. S. Senate
353 Russell Office Building
Washington, D. C. 20510

Dear Senator Durenberger:

I want to commend you for introducing S.3030, the Commuter Transportation Energy Efficiency Act along with Senators Percy, Bentsen, Hayakawa, Baucus, Pell, Isongas and Hatfield. The passage of this bill will be a great step for ridesharing efforts. As another Department of Energy official noted that much of the reluctance of companies to implement ridesharing programs is the fact that it is a "non-revenue producing overhead expense". I believe the incentives in this bill will further encourage employers as well as individuals to participate in this energy conservation measure.

At the present time, there is legislation introduced on the state level to eliminate ridesharing activities from our Workers' Compensation laws. This has been an impediment to our efforts to promote ridesharing.

Thank you for keeping me posted on the progress of this legislation and I wish you success in the passage of this legislation.

Sincerely,

Betty Compton

Betty Compton
Transportation Coordinator

BGC:sw

THE CITY OF

HOUSING AND ECONOMIC DEVELOPMENT
ENERGY RESOURCES AND PLANNING
CITY HALL — ELEVENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4193

THE ENERGY PLACE
1602 S. McLean Blvd.
Wichita, Kansas 67213

January 14, 1981

Honorable David Durenberger
U.S. Senate
Washington, D.C.

Dear Senator Durenberger:

Thank you for your support of ridesharing. The City of Wichita has recently initiated a regional ride share program, and as Ride Share Coordinator, I feel that S.3030 will make the task of promoting ridesharing much easier. The incentives provided by this legislation could have very positive energy conservation impacts.

Unlike other methods responding to the energy problem, ridesharing is among the few strategies which represents a positive, personal approach for dealing with a critical problem.

If you would like any information on our local ridesharing programs, or if I can be of any assistance in your efforts, please feel free to call me at (316) 265-4193.

Sincerely,

Michael C. Meier

Michael C. Meier
Ride Share Coordinator

MM:de

Honeywell

23 December 1980

Senator Dave Durenberger
353 Russell Senate Building
Washington, D.C. 20510

Dear Senator:

I just reviewed your comments to the Senate on 53030, "The Commuter Transportation Energy Efficiency Act".

Although the comparison by the President of war and energy emergencies was never supported by action indicating that our energy situation was and is as serious, I believe the United States will yet experience the unavoidable shock. It is imperative that individuals and business work closely to reduce the impact.

Many of the actions we are taking to improve the energy situation will contribute solutions to our problems years from now. They should be continued and emphasized. However, your bill is directed at an area which can be changed materially in a short time. Your approach is admired since it puts government into the loop as a catalyst only, with actions from our strength, people, and business.

My only suggestion, since I believe the situation will deteriorate until an emergency is declared, is that the incentives should be maximized to the point where neither business nor individuals can ignore the carrot. The incentive should be no less than for an individual who invests long term capital; and, in my opinion, should go much further.

Business should be given, maybe, 50% investment tax credit to cover equipment provided. Drivers, who must dedicate themselves, should be allowed to deduct from income all operating expenses offset by, maybe, only 50% of the income from passengers. Passengers should be allowed to deduct, maybe, their entire fares from ordinary income. The incentives finally adopted should be tested for one year; and, if results are not major, they should be improved by amendment immediately.

I believe halfway measures, although helpful, will not solve the problems that will face the United States should any of a number of situations occur during the next twenty to thirty years. Actions which will pay off immediately in a major area of energy consumption should help materially to offset the adverse impact on our economy and society while we await the results of technological advances in the energy area.

I appreciate the opportunity of commenting on your legislation.

Yours truly,

O. M. Brumfiel

OMB:kk

TECHNOLOGY STRATEGY CENTER, HONEYWELL CONTROL SYSTEMS
1700 WEST HIGHWAY 36, ROSEVILLE, MINNESOTA 55113, TELEPHONE 612/378-4178

Stanislaus County
Department of Planning and
Community Development
1100 H STREET MODESTO, CALIFORNIA 95354 PHONE 526-6300

Area code 209

November 3, 1980

Senator Dave Durenberger
United States Senate
Washington, DC 20510

Dear Senator Durenberger:

Thank you for your support of ridesharing. Tax incentives are an excellent way to encourage people to share their vans and cars.

If our goal is to decrease our dependency on foreign fuel, then every effort must be made to conserve; and what better way than ridesharing.

S3030 will make a significant contribution to our national energy conservation effort.

Sincerely,

Pat Paul
Ridesharing Manager

BERLIN BRISTOL BURLINGTON NEW BRITAIN PLAINVILLE PLYMOUTH SOUTHINGTON

CENTRAL CONNECTICUT
REGIONAL PLANNING
AGENCY

12 laundry street
bristol, connecticut 06010
bristol phone 589-7820
new britain phone 224-9888
hartford phone 246-2180

November 14, 1980

The Honorable Dave Durenberger, U.S. Senator
United States Senate
Washington, D.C. 20510

Dear Senator Durenberger:

I am writing to express my support for S. 3030, the Commuter Transportation Energy Efficiency Act of 1980 which will provide a number of new tax incentives to encourage ridesharing for the trip-to-work. As a transportation planner for the Central Connecticut Regional Planning Agency, I share your realization that rising fuel prices and recent world events dictate that the U.S. take every reasonable step to ensure both transportation efficiency and energy independence by discouraging the inefficient single-occupancy auto work-trip. In areas where transit service is currently unavailable or unaffordable, ridesharing is the most inexpensive and gas-efficient method of commuting.

Since, as pointed out in the Congressional Record, the costs and fuel benefits of ridesharing are widely accepted as fact, the biggest obstacles keeping more commuters from utilizing the ridesharing mode of travel are ingrained attitudes and legal impediments. I certainly hope that the passage of S. 3030 will provide the needed incentives for borderline employers and employees to actively participate in commuter ridesharing programs. In respect to the legal impediments, I hope Congress will do all it can on the national level to encourage states to adopt the various sections of the Model State Law to Remove Legal Impediments to Ridesharing Arrangements which was drafted by the National Committee on Uniform Traffic Laws and Ordinances for the U.S. Department of Transportation.

I hope you will transmit my comments to your colleagues in Congress and wish you success in guiding S. 3030 through the legislative process. Please keep me informed of any developments as they occur.

Sincerely,

José Giner
Transportation Planner

JG:nd

1980 NOV 10 AM 8 [illegible]

American Can Company

Nicholas Marchak, Vice President & Director
Corporate Administrative Facilities

American Lane, Greenwich, Conn. 06830
203-552-2202

November 6, 1980

The Honorable David Durenberger
The United States Senate
353 Russell Senate Office Building
Washington, DC 20510

Dear Senator Durenberger:

The American Can Company has been active in vanpooling and ridesharing activities at its Corporate Headquarters in Greenwich, Connecticut since 1974.

We strongly support the Commuter Transportation Energy Efficiency Act of 1980 (S. 3030) proposed by Senator David Durenberger and his colleagues offering new tax incentives for ridesharing.

Ridesharing, in all its forms, makes a very significant contribution to our national energy conservation efforts, and any added inducements would definitely add impetus to its further acceptance and growth.

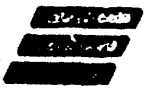
We strongly recommend a "yes" vote on this legislation.

Very truly yours,

Nicholas Marchak

Nicholas Marchak

NM:ps



ERC CORPORATION

October 29, 1980

Mr. Dave Durenberger
United States Senator
United States Senate
Washington, D.C. 20510

Dear Senator Durenberger:

I am in receipt of your letter of October 15, 1980 in which you acquainted me with your sponsored bill on tax incentives for ridesharing.

As an advocate of ridesharing of the van pool/car pool variety, I wish to commend you and your co-sponsors of the bill. It is something that is urgently needed at this point for the costs of commuting continue to mount. Fully a third of our employees who terminate their employment have advised us the reason was commuting expense. We installed a van pool program as a result.

As the head of the personnel operation of one of the prestige corporations in America, I can tell you that our van pool program has grown like a prairie fire spreads. From the modest beginning of 1 van installed in April of 1979, we have witnessed a phenomenal growth to 15 vans carrying over 200 of our employees daily in their commute from home to work and back. This means that almost 30% of our employees ride vans.

This takes a conceivable 200 automobiles off the highway daily and replaces them with 15 vans. The average commuting distance is approximately 38 miles daily. The resultant savings in consumption of energy is apparent.

Through my efforts, 5 other companies in the greater Kansas City area have also installed van pool programs. It appears therefore that Kansas City employers have become very energy conscious and at the same time are achieving some success at retaining employees who because of the inflation problem might have to seek employment elsewhere closer to home.

By increasing the tax credit for new vans to 20%, I am sure that we can expect to double the number of van pools operating in the U.S. within the first year. This of course coupled with your plan of business credits to corporations will be the incentive to convince many companies that this is the future way to go.

If I can be of any further service to you in presenting company or personal data to the Senate Finance Committee, I would be honored to appear for you (and the United States of America).

5200 Metcalf • P.O. Box 2991 • Overland Park, KS 66201 • (913) 676-5200 • Telex 437024

Since I personally am a resident of the ninth Congressional district of Missouri, I would appreciate your sending a copy of this letter to Tom Coleman, my congressman, and to Tom Eagleton of the Senate.

Sincerely,

E. F. Thomas
Assistant Vice President &
Director of Personnel

EFT:mw

THE CITY OF WICHITA

METROPOLITAN TRANSIT AUTHORITY
TRANSIT CENTER, 1825 S. McLEAN BLVD.
WICHITA, KANSAS 67213
(316) 265-7221

October 31, 1980

The Honorable Dave Durenberger
United States Senator
United States Senate
Washington, D. C. 20510

Dear Senator Durenberger:

Thank you for providing me with a copy of S. 3030 concerning tax incentives for employees and employers for the formation of carpools and vanpools as an energy conservation measure. I would like to commend you for your foresignt and concern for energy conservation measures through sponsorship of this legislation.

I do envision some administrative burden for the Internal Revenue Service in this matter, particularly as they may be required to seek verification of expenditures by the individual. Employer expenditures would be relatively identifiable.

We do not have a copy of the Internal Revenue Code of 1954 available for examination, and I am not able to identify with certainty whether this incentive would be applicable to mass transit users.

We, of course, carry many commuters daily and since the energy crisis of 1978 our ridership has grown steadily. Also we have a number of employers who purchase our punch passes and either resell them at a discount or give them to their employees as a benefit.

If the transit commuter is not included in S. 3030, I would encourage you to consider amendments which would include the transit commuter and the employer who provides transit incentives as an employee benefit.

Again, thank you for providing me with S. 3030 for review and for reading my comments.

Sincerely,

Elmer Karstensen
Executive Director

EK:ckm

JOBS NOW, INC.
HOUSING NOW, INC.
Black Pages
Douglas Park Apts.
Refuse Energy Systems
Van Pooling
Village West Complex

ACTION NOW, INC.
The National Alliance of Business

VILLAGE WEST CENTER MALL
1015 WEST CHESTNUT ST.
TELEPHONE (502) 584-2403/582-2237
LOUISVILLE, KENTUCKY 40203

VICTOR L. PRIEBE
EXECUTIVE DIRECTOR

November 26, 1980

Senator Dave Durenburger
U. S. Senate
Washington, D.C. 20510

Dear Senator Durenberger:

A copy of your October 15th letter and a summary of S.3030 was forwarded to us by John Miller, Director of the Metro Louisville Ridesharing Program.

Action Now, Inc. a non-profit organization, in cooperation with the Louisville Ridesharing Program, sponsors the Action Now/Van Pool Program. We work in a third-party advisory capacity, helping prospective drivers to buy their own vans for van pooling. With the current state of the economy and vehicle interest rates climbing daily, I assure you it is an uphill struggle.

We are, therefore, overjoyed to see the introduction of this legislation. Van pooling isn't now, nor has it ever been, a money-making venture for either the individual or the employer. Your bill will give needed financial assistance to those who have the courage to go out on a limb in promotion of ridesharing.

The passage of "The Commuter Transportation Energy Efficiency Act of 1980" will be a tremendous boost to our efforts to promote van pooling. We give it our full support and commend you and your colleagues for your efforts.

Sincerely,

Paul L. Curry

Paul L. Curry
Field Coordinator
ACTION NOW/Van Pool

rg

Louisville Area
Chamber of Commerce, Inc.
300 West Liberty Street
Louisville, Kentucky 40202
502 · 582-2421

November 4, 1980

Senator Dave Durenberger
U. S. Senate
Washington, DC 20510

Dear Senator Durenberger:

Thanks for your letter of October 15th and the information concerning the bill (S.3030) which you introduced to provide tax incentives for ridesharing.

Our success in stimulating ridesharing among Louisville commuters, has been achieved largely by working through major employers, for two reasons. The potential ridesharers are workers and they can best be found where they work. Also, we have found that our task is to motivate the worker to exchange the convenience of an individual automobile for the efficiency of ridesharing -- and his employer is an effective motivator.

All this adds to the fact that our principle challenge at this time, is to convince some reluctant Louisville employers that it is in their selfish best interests to aggressively promote ridesharing. Consequently, ridesharing tax incentives, particularly for the employer, will be most helpful to us.

I feel confident that the passage of your bill will provide a very important stimulus for additional ridesharing, at a relatively modest cost.

Sincerely,

John H. Miller

John H. Miller
Director

METRO LOUISVILLE RIDESHARING PROGRAM

JHM:ng

CAPITAL HOLDING CORPORATION
COMMONWEALTH BUILDING • LOUISVILLE, KENTUCKY 40232 • TELEPHONE 502/584-8157

DANIEL O VAN WORMER
VICE PRESIDENT

November 10, 1980

Mr. Dave Durenberger
United States Senator
United States Senate
Washington, DC 20510

Dear Mr. Durenberger:

Mr. John H. Miller, Director of Metro Louisville Ridesharing Program, forwarded me a copy of the legislation you introduced under the Commuter Transportation Energy Efficiency Act of 1980. As a member of the Louisville Chamber of Commerce committee to promote ridesharing and as a concerned citizen, I'm writing to endorse your bill proposing several incentives to encourage ridesharing.

The reduction of traffic snarls and air pollution along with the opportunity to save dollars commuting to and from work should in theirselves provide a reasonable incentive for persons to car pool whereever possible. Unfortunately, these personal incentives have not been enough to cut back on the number of commuters choosing to go it alone, i.e., one car, one passenger. Your proposed legislation should be valuable in encouraging car pooling through additional incentives. The incentives suggested impact favorably on both the individual and employer and should provide desirable results. You certainly have my support in your endeavors to promote ridesharing.

Sincerely,

Daniel O. Van Wormer

DVW:pf

cc: Mr. John H. Miller

City of St. Matthews, Inc.

201 THIERMAN LANE, P. O. BOX 7097, ST. MATTHEWS, KENTUCKY 40207

MAYOR: BERNARD BOWLING

COUNCILMEN: JOHN J. BARKER • R. O. DORSEY • ARTHUR K. DRAUT • MILLARD F. FRENCH • HARRY HARGADON, JR. • ROBERT HART • ORVILLE MOORE • OMEGA WATERS

November 12, 1980

Senator Dave Durenberger
U. S. Senate
Washington, D. C. 20510

Dear Senator Durenberger:

As a member of the Advisory Committee, Metro Louisville Ridesharing Program, representing Mayor Bernard F. Bowling of the City of St. Matthews, I want to share my view along with Mr. John H. Miller, Director of the Metro Louisville Ridesharing Program, in regard to your Bill (S-3030), the Computer Transportation Energy Efficiency, October of 1980.

I support this bill and believe it will make a significant contribution to national energy and transportation policy.

Yours truly,

Tom Mercer

Tom Mercer
City of St. Matthews, Ky.

TM/eh

REGIONAL PLANNING COMMISSION
JEFFERSON • ORLEANS
ST. BERNARD • ST. TAMMANY
PARISHES

1980 NOV -6 PM

October 30, 1980

Senator Dave Durenberger
United States Senate
Capitol Hill
Washington, D.C. 20510

Dear Senator Durenberger:

We would like to express our appreciation for the opportunity to review and comment upon the Commuter Transportation Energy Efficiency Act of 1980 (S.3030) which you have recently introduced into Congress.

Having worked with employers in the New Orleans SMSA in an effort to encourage employer-sponsored ridesharing programs, we are particularly pleased to note the provision which allows a business tax credit for specified costs which businesses might incur as administrative overhead for an organized employee ridesharing program. These costs can prove substantial and, particularly in the case of smaller businesses, difficult to absorb.

We feel that all of the tax credits outlined in the bill will prove beneficial in encouraging ridesharing, and that a good balance has been achieved in providing incentives to both the individual and to the employer.

We would therefore like to offer our wholehearted support of this legislative effort.

Sincerely,

REGIONAL PLANNING COMMISSION

JOHN M. BORDELON
EXECUTIVE DIRECTOR

JMB/CHZ/nlmm

(504) 568-6611
SUITE 200
MASONIC TEMPLE BUILDING
333 ST. CHARLES AVENUE
NEW ORLEANS • LOUISIANA 70130

NORTH DELTA

regional planning and development district, inc.

Phone (318) 387-2572 · 2115 Justice Street · Monroe, Louisiana 71201

October 31, 1980

The Honorable David Durenberger
United States Senator
Russell State Office Building
Washington, D. C. 20510

Dear Senator Durenberger:

Recently we received a copy of the proposed bill, S. 3030, the Commuter Transportation Energy Efficiency Act of 1980. We at North Delta strongly support this bill and appreciate your efforts in support of ridesharing.

We feel that the potential for ridesharing to significantly affect our country's energy situation is tremendous and should be encouraged as much as possible. S. 3030 is an important and timely piece of legislation which will provide desperately needed incentives to promote ridesharing.

As Vanpool Coordinator of our eleven parish district in northeast Louisiana, I feel that S. 3030 will make the task of promoting ridesharing much easier. Both employers and employees in this area are reluctant to begin formal ridesharing programs because there are few examples of such programs in Louisiana. The added incentives of S. 3030 should provide the necessary impetus to get new ridesharing programs started.

Once again, let me thank you for your work to promote ridesharing and reiterate our support for S. 3030.

Sincerely,

Nancy Glover

Nancy Glover
Vanpool Coordinator

NG:cb

THE COORDINATING & DEVELOPMENT CORPORATION
3305 Mansfield Road • P.O. Box 37005 • Shreveport, LA 71103 • (318) 226-7557

M. D. LeComte
Executive Vice-President

October 27, 1980

The Honorable Dave Durenberger
United States Senate
Committee on Finance
Washington, D. C. 20510

RE: SENATE BILL 3030

Dear Dave:

Thanks so much for your correspondence of October 17 outlining the Commuter Transportation Energy Efficiency Act of 1980. This particular piece of legislation appears to be what we have all been looking for and hoping both the Senate and House would come up with to give incentive to industry and business in promoting ridesharing development.

Dave, we have reviewed the Bill amending the Internal Revenue Code and support the various sections contained therein. A few suggestions which you may wish to consider in strengthening the Bill's chances of passing are 1) a revolving tax credit for early in/early out business-oriented transportation, and 2) away-from-job employer credits for drivers. Both of these are minor suggestions, but they are needed.

Senator, again, it is our position that this proposed legislation is very much needed. We, therefore, support the Bill and offer any assistance which would help its passage. Thank you for allowing us the opportunity to review, comment, and garner support for this worthy legislation.

Warmest regards.

Your friend,

MDL/rls

pcs: Louisiana Congressional Delegation

75-629 O—81——17

Joseph E. Brennan
Governor

State of Maine
Executive Department
OFFICE OF ENERGY RESOURCES
55 Capitol Street
Augusta, Maine 04330
(207) 289-2196

John M. Joseph, Jr.
Director

November 13, 1980

Dave Durenberger
United States Senator
Washington, D.C.
20510

Dear Senator Durenberger:

I was both pleased and excited to receive your letter of October 17th in which you outlined S. 3030, the Commuter Transportation Energy Efficiency Act of 1980. It is encouraging to those of us promoting ridesharing at the local level to know that there is solid support for the concept in Congress.

The five incentives which S. 3030 will offer to individuals and businesses will, I believe, make employer sponsored rideshare programs that much more attractive. For individuals, the tax exemptions you propose in terms of payment from riders to drivers and transportation benefits accruing to individuals through employer rideshare programs, will provide some much needed clarification on current statutes. Both of these areas are currently rather "murky" and open to a variety of interpretations. Therefore, I am enthusiastic about S. 3030 and certainly hope that it will be quickly enacted.

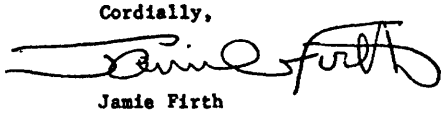
Let me take this opportunity to share some perspectives with you. For the most part, major rideshare programs have been based in highly urbanized areas of the country. I do not mean to suggest that this is inappropriate, but I think the significance of ridesharing in rural areas is often overlooked. Here in Maine, the average commuting distance is often more than 20 miles one way. Pay scales are generally low. Winters can be very rough, making commuting something of a battle. Gasoline supplies can be, and have been, easily interrupted. Public transportation is limited to the "intown" portions of our largest cities. As gasoline prices escalate, or if rationing or prolonged shortages should occur, Maine commuters will have a very difficult time travelling to and from work. The effect on our economy could be disastrous. All these factors combine to make ridesharing: on an organized, regional basis, a very important tool for immediate conservation as well as an emergency contingency tool.

For the above reasons, our office has aggressively promoted ridesharing during the last year. We are aware of 127 vanpools now in operation and a survey taken last summer showed approximately 18% of

Maine commuters travel in carpools. We are pleased by these results, but a great deal remains to be done.

Your efforts are greatly appreciated. If our office can be of further assistance, please do not hesitate to contact us.

Cordially,



Jamie Firth
Rideshare Coordinator

JF/mg

CHRYSLER CORPORATION

1980 NOV -6 AM 10 :-

October 28, 1980

United States Senator Dave Durenberger
United States Senate
Committee on Government Affairs
Washington, D. C. 20510

Dear Senator Durenberger:

Thank you for your letter to Mr. Iacocca concerning Senate Bill S.3030.

We at Chrysler Corporation appreciate and support the Commuter Transportation Energy Efficiency Act of 1980. The legislation which you introduced in the Senate will provide the incentives to obtain our nations wholehearted support for the ridesharing program. You are to be highly commended for your efforts.

Chrysler Corporation is actively promoting ridesharing programs throughout our plants by encouraging employees to car pool and van pool. At present, we have 170 vehicles in our employee van pool fleet.

Chrysler's subsidiary, Van Pool Services, Inc., is providing third-party van pooling in the states of Minnesota, California, Colorado, Michigan, Connecticut, Pennsylvania and Washington, D.C.

We recognize van pooling as making one of the greatest contributions to conserve our nation's petroleum products over all other forms of commuter transportation. The incentives outlined in your bill will encourage others to participate.

We strongly support Senate Bill S.3030 and look forward to its early adoption.

Sincerely,

Thomas J. McDonald

Thomas J. McDonald
President
Van Pool Services, Inc.

TJM/mc

cc: R. Griffin
F. G. Hazelroth

Minnesota
Department of Transportation
Transportation Building
St. Paul, Minnesota 55155

Office of Commissioner

(612) 296-3000

September 18, 1980

Senator Dave Durenberger
Room 174 Federal Building
110 Fourth Street South
Minneapolis, Minnesota 55401

Dear Senator Durenberger:

As Governor Quie's Ridesharing Coordinator for Minnesota, I want to take this opportunity to thank you for your efforts to enhance the desirability of sharing rides. I am convinced that increased carpooling and vanpooling offers an economical yet effective means to reduce gas consumption and adverse effects of high gas prices. I specifically want to endorse the passage of the Commuter Transportation Energy Efficiency Act of 1980 (S 3030). Your recommended legislation addresses the problems we have identified as being barriers to effective rideshare programming.

The attached comments on specific elements of S 3030 may be useful in hearings on the bill. Please let me know if I or my staff can be of assistance in securing passage of this legislation.

Sincerely,

Richard P. Braun
Commissioner

Attachment

OCT 6 1980

MINNESOTA CHAPTER OF NAVPO

November 18, 1980

The Honorable David Durenberger
U.S. Senate
Washington, D.C. 20510

Dear Senator Durenberger:

The members of the Minnesota Chapter of the National Association of Van Pool Operators endorse your bill--S 3030--The Commuter Transportation Energy Efficiency Act of 1980.

The Minnesota Chapter represents 21 organizations that provide vanpool services to 4150 employees. We organized as a group last year to promote vanpooling and other forms of ridesharing, to exchange information on mutual interests in vanpooling challenges and techniques for delivering the most energy efficient commuter service.

Your proposed legislation can significantly encourage other employers and individuals to provide this important service. We believe the tax incentives for employers to provide ridesharing services and for purchase or lease of vans by firms and individuals is a move in the right direction. Another provision that eliminates the incentives for ridesharing from personal taxable income will remove a significant cloud that dampens activity.

If we can be of assistance in your efforts on this bill, please let us know.

Sincerely,

Harold J Schuebel

Harold J Schuebel
Chairman
Minnesota Chapter of NAVPO

P.O. Box 43089, St. Paul, Minnesota 55164

DULUTH MISSABE AND IRON RANGE RAILWAY COMPANY

MISSABE BUILDING · DULUTH, MINNESOTA 55802

DONALD B. SHANK
VICE PRESIDENT AND GENERAL MANAGER

November 19, 1980

The Honorable Dave Durenberger
United States Senate
Washington, D. C. 20510

Dear Senator Durenberger:

The Duluth, Missabe and Iron Range Railway, with operations in Northeastern Minnesota and the Superior Area of Wisconsin, strongly supports your efforts to encourage ridesharing as a way to help our country meet the current energy crunch.

S. 3030, introduced by you and co-sponsored by a number of your Senate colleagues, would enable companies such as ours to give serious consideration to van or carpooling as a practical way to get employees to and from work locations not enjoying service by existing public transit, or where such service is inadequate or inconvenient.

I hope this legislation will be favorably reported by the Senate Finance Committee, and enacted into law by the Congress.

Sincerely,

D. B. Shank

Metropolitan Transit Commission
801 American Center Building St. Paul, Minnesota 55101 612/221-0939

November 20, 1980

The Honorable David Durenberger
Russell Senate Office Building
Room 353
Washington, D. C. 20510

Dear Senator Durenberger,

The Metropolitan Transit Commission (MTC) strongly supports your recently introduced Commuter Transportation Energy Efficiency Act of 1980 (S. 3030). This legislation will provide important incentives for employers to develop and encourage new and continued ride-sharing efforts.

In particular, we offer the following comments:

- The provision to give tax credits to employers who provide rideshare programs and services is especially important. As evidenced through the MTC's ridesharing experience, the commitment from top management directly increases the level of ridesharing of its employees. We hope that this particular provision will encourage more firms, who either have their own programs or utilize various services of a public program like that offered by the MTC, to increase their support for ridesharing.

  We would like to ask if it is your intention to have this tax credit apply to a variety of transit modes. As you may know, several Twin Cities firms have provided monthly bus pass discounts to their employees through payroll deduction, an action that seems consistent with other ridesharing incentives included in your bill. We urge you to extend this tax credit provision to employers for their efforts in encouraging employees to use regular route transit, subscription bus service and buspools.

- The proposal to increase the 10% investment tax credit on vans used for vanpooling to 20%, liberalizing the restrictions on personal use, and allowing this credit for third party vendors who purchase or lease vans are also very important

provisions of this proposed legislation. As you know, the MTC, the Minnesota Department of Transportation and other public rideshare programs often contract with a third party vanpool provider. The tax credit provisions included in the legislation would be an incentive for both existing and new vanpoolers since this credit would tend to lower fares.

We commend you for providing the leadership in Congress to enhance the climate for ridesharing on the national level. Minnesota has been a leader in ridesharing for the past seven years and your proposed bill is representative of that leadership.

If we can be of any assistance to you, please let us know.

Sincerely,

Camille D. Andre
Chief Administrator

cc Minnesota Congressional Delegation
Mr. George Thiss

DEPARTMENT OF ENERGY & TRANSPORTATION
Watkins Building, 510 George Street
Jackson, Mississippi 39202
601 / 961-4733

November 11, 1980

Honorable Dave Durenberger
United States Senator
Washington, D.C. 20510

Dear Senator Durenberger:

Thank you for your letter of October 17, 1980 and the enclosed extract from the Congressional Record (vol. 126, No. 125) concerning S. 3030: The Commuter Transportation Energy Efficiency Act of 1980.

Your efforts are greatly appreciated in this matter, particularly because we are trying to enact van pool legislation here in Mississippi. I am currently a Transit Specialist trying to implement the Urban Mass Transportation Small Urban and Rural Transportation (Section 18) Program on a statewide basis. In our planning and implementation we are continually confronted with the need to provide for work trips. Van pools are the obvious solution, but we cannot fund these.

Would you please consider in future laws, a provision allowing the Section 18 program to insure loans to van-poolers? We have the necessary state-wide networks and contacts; we need the funds. The Federal Highway Administration, Federal Aid highway funds may already be used for this purpose, but in this state those funds are considered sacrosanct as "blacktop money."

Please let me know if we can be of assistance to you. In the meantime, we will keep working on our state program.

Sincerely,

Stephen T. Higgins
Transit Specialist

SH/jc

CITY of SPRINGFIELD

80 DEC -4 AM 7:59

December 1, 1980

The Honorable David Durenberger
Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Durenberger:

After reviewing your proposed legislation, S.3030 - Commuter Transportation Energy Efficiency Act of 1980, I strongly support the passage of this bill. The need to develop our ridesharing potential is paramount, and this legislation offers effective incentives to encourage employers and individuals to promote and participate in a ridesharing program.

As indicated in your legislation, ridesharing is an energy-saver and a money-saver. As a special mode of transportation it has been emerging as a key strategy toward solving today's problems concerning energy, environment, and transportation. With the continued possibility of fuel shortages and the increasing cost of owning and operating an automobile, we cannot afford not to rideshare.

As highways become more crowded and fuel costs continue to rise, ridesharing will increasingly offer the most attractive option, and your legislation provides a means to encourage its use.

The City of Springfield, Missouri is in the process of implementing a rideshare program for the city and the surrounding communities. The passage of your bill would greatly enhance our efforts by increasing the attractiveness of ridesharing. The City Council has passed a resolution endorsing your proposed legislation, and I am enclosing a copy of this resolution.

You have our support for your continued efforts in the promotion of ridesharing.

Sincerely,

Gene Boles, AICP,PE
Director of Planning

Planning Department

830 Boonville Avenue
Springfield, Missouri 65801
(417) 864-1611

DS/jb

Enclosure

Pub. Imp. _____
Govt. Grnt. _____
Emer. _____
P. Hrngs. _____
Pgs. 3
Filed: _____

Sponsored by: _____

COUNCIL BILL NO. 80- 479 RESOLUTION NO. 6710

A RESOLUTION

ENDORSING the Commuter Transportation Energy Efficiency Act of 1980.

WHEREAS, the Commuter Transportation Energy Efficiency Act of 1980 has been proposed to the United States Senate by Senator David Durenberger of Minnesota; and

WHEREAS, the bill sets forth incentives to encourage ridesharing among individuals and to encourage employers to sponsor rideshare programs.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, MISSOURI, as follows:

That the City Council does hereby endorse the passage of the Commuter Transportation Energy Efficiency Act of 1980.

Passed at Meeting: November 24, 1980

/s/ Paul Redfearn
Mayor

Attest: /s/ Donald H. Kelley City Clerk

Approved as to Form: City Attorney

Approved for Council Action: City Manager

Transportation Department
Parking and Transit Division

1980 ... 10 PM ... L

City of Kansas City, Missouri
Heart of America

24th Floor, City Hall
Kansas City, Missouri 64106

816/274-1801

November 7, 1980

Senator Dave Durenberger
United States Senate
Washington, D.C. 20510

Dear Senator Durenberger:

I have received your proposed legislation, Senate Bill #3030, to amend the internal Revenue Code to provide positive tax incentives to individuals and orgainizations who wish to purchase vehicles for ridesharing purposes.

The City of Kansas City, Missouri actively promotes regional ridesharing program. Therefore, I will be following Senate Bill #3030 with interest.

As a member of the Missouri Governor's Task Force on Ridesharing, I will present this legislation to the Task Force for their recommended action.

Sincerely,

Harold E Bastin

Harold E. Bastin
Assistant Director of Transportation

HEB/sjg

cc: John D. Franklin

METRO AREA TRANSIT

AUTHORITY BOARD
DONALD L. STERN, CHAIRMAN
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ADMINISTRATIVE OFFICE (402) 341-7560
CUSTOMER SERVICE 341-0800

OWNED BY THE TRANSIT AUTHORITY CITY OF OMAHA

November 12, 1980

U. S. Senator Dave Durenberger
United States Senate
Washington, D. C. 20510

Dear Senator Durenberger:

Thank you for requesting our input to S. 3030, The Commuter Transportation Energy Efficiency Act of 1980. I have previously had an opportunity to review the bill, and feel that it will provide significant encouragement to employers who are interested in promoting employee ridesharing.

In our dealings with local employers, we have found them to be highly receptive to the promotion of ridesharing. Their major concern was that there has previously been little recognition or support from the federal level. This type of support is vitally important in providing an incentive to employers to continue and expand their ridesharing programs, and I believe S. 3030 will go a long way towards solving this problem.

My only suggestion is that if, (or should I say when), S. 3030 is passed, information on how employers and individuals may qualify for these tax incentives should be distributed to all ridesharing agencies. Then we, as local advocates, can follow-up by insuring that the appropriate persons locally are made fully aware of the benefits of the bill.

Thank you for your interest and concern, and please let us know if we can be of any assistance to you in this area.

Sincerely,

Steve Frisbie
Program Supervisor

SF/er

City of Lincoln County/City Building Lincoln, Nebraska 68508 Telephone (402) 475-5611 Helen G. Boosalis, Mayor

LINCOLN

TRANSPORTATION DEPARTMENT
233 S. 10th St., 2nd Floor
Lincoln, NE 68508
Telephone (402) 473-6485

Transportation Development Division
Transit Planning (402) 473-6873
Carpool/Vanpool (402) 473-6389

November 5, 1980

Senator Dave Durenberger
The United States Senate
Washington, D.C. 20510

Dear Senator Durenberger:

Speaking for the staff of Lincoln's Carpool/Vanpool Program, we are excited about your bill, S. 3030, the Commuter Transportation Energy Efficiency Act of 1980.

As ridesharing professionals promoting and coordinating an employer based program, we know employer incentives are needed and S. 3030 provides this with the tax credit for the employer sponsored ridesharing program. To date, the strongest employer programs are due to 'social responsibility' on the part of the company. The tax credit rewards these firms and provides excellent incentive for prioritizing ridesharing at the top management level.

We are also very pleased to see the gas tax deduction provision for carpools and the individual tax credit which applies to work trip vehicles carrying eight adults plus the driver. This definition should cover some of our 'dedicated' carpools purchased by pool members for long commutes. A case study provided by an individual we assisted is enclosed.

Nebraska tends to be a low density area with longer trips from the rural areas to work locations. This bill assists these persons so they may not be forced to relocate which often creates another type of financial burden.

Thank you for providing information on the Commuter Transportation Energy Efficiency Act. We are confident that the employer provisions

will greatly increase ridesharing interest among employers which will facilitate employee need.

Sincerely,

LINCOLN'S CARPOOL/VANPOOL PROGRAM

Shirley Maly
Administrator

Linda Ahlman
Assistant

SM:lm

Enclosure

cc J. James Exon
Edward Zorinsky

REGIONAL TRANSPORTATION COMMISSION
OF
CLARK COUNTY
P.O. Box 396
Las Vegas, Nevada 89101
(702) 386-4481

RICHARD J. RONZONE
Chairman, Clark County
RON LURIE
Vice-Chairman
City of Las Vegas
MANUEL CORTEZ
Clark County
MARY KINCAID
City of North Las Vegas
AL LEVY
City of Las Vegas
JOHN McEWAN
City of Boulder City
LEROY ZIKE
City of Henderson

CHARLES P. BRECHLER
Managing Engineer

October 29, 1980

Senator David Durenberger
United States Senate
Washington, D.C. 20510

RE: S. 3030, THE COMMUTER TRANSPORTATION ENERGY EFFICIENCY ACT OF 1980

Dear Senator Durenberger:

Thank you for your letter of October 17, 1980, informing me of your sponsorship of the above referenced bill, which would provide for several new tax incentives to encourage commuter ridesharing.

Legislation of this kind is certainly in order and timely. Unintended legal impediments to ridesharing must be overcome if progress is to be made in our efforts to reduce oil consumption, air pollution, and highway congestion.

The tax incentives will provide great encouragement to the formation of vanpools, especially employer-sponsored vanpools. And I think the fact that members of Congress, such as yourself, who are addressing the problem constructively will add significance to the importance of ridesharing.

Such leadership will encourage employers and state legislatures to become aware of the need to support ridesharing. In Nevada, for example, Chapter 706 of the Nevada Revised Statutes does not provide exemptions for private owner-operated vanpools from regulations of the Public Service Commission applicable to major common motor carriers such as bus companies. Issues of workman's compensation liability and overtime minimum wage liability regarding flexible work hours to accommodate rideshares also require attention.

REGIONAL TRANSPORTATION COMMISSION

I wish you success with your endeavors in this matter. If I can be of assistance, please do not hesitate to ask.

Very truly yours,

CHARLES P. BRECHLER, P.E.
Managing Engineer

David Peace

DAVID PEACE
Management Analyst

dks

cc: U.S. Senator Paul Laxalt
U.S. Senator Howard W. Cannon
U.S. Congressman James Santini
State of Nevada Department of Energy, Attn. Noel Clark, Director
Nevada Governor Robert List

MANCHESTER
TRANSIT AUTHORITY
110 ELM STREET, MANCHESTER, N. H. 03101
TELEPHONE (603) 623-8801

September 10, 1980

Senator David Durenberger
Russell Senate Office Bldg.
Room 353
Washington D.C.

Dear Senator:

Your bill S-3030 concerning the Commuter Transportation Energy Efficiency Act of 1980 shows a remarkable sense of creativity in regards to energy conservation.

Not only does the bill provide for a more efficient act of energy conservation by the american people but also it gives the Transit Authority a marketable tool to sell a program which we are currently pursuing.

The program itself is called Quick Pass. It is outlined in the brochure enclosed. Please read the brochure to get a better understanding of what the Transit Authority is doing to get to citizens of Manchester to take part in mass transit.

It is the duty of every American citizen to stop wasting and start saving our precious fuel.

Your bill provides an incentive for American business to start creatively thinking of ways to save. The Manchester Transit Authority thanks you for your effort.

Your efforts in passing this bill will be supported by the Manchester Transit Authority.

Sincerely,

Herbert Pence
General Manager

HP/ljs

Enclosure

FPE FEDERAL PACIFIC ELECTRIC COMPANY
150 AVENUE L • NEWARK, NEW JERSEY 07101 • 201-589-7500

1980 NOV 10 PM

November 7, 1980

Senator D. Durenberger
U.S. Senate
Washington, D.C. 20510

As a member of a company vanpool, I want to acknowledge support for Senate bill S.3030 (The Commuter Transportation Energy Efficiency Act of 1980). Your bill will be an incentive for other companys and individuals to form ride sharing programs.

I know our program at Federal Pacific Electric has been a great success during the past year.

Sincerely,

Lou Frezzi

LF:dma

cc: Senator H.A. Williams
Senator Bill Bradley

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
ENERGY CONSERVATION AND MANAGEMENT DIVISION

BRUCE KING
GOVERNOR
LARRY KEHOE
SECRETARY

POST OFFICE BOX 00
SANTA FE, NEW MEXICO 87501
(505) 827-5950

3018 MONTE VISTA NE
ALBUQUERQUE, NEW MEXICO 87106
(505) 842-3157

P.O. BOX 3460
LAS CRUCES, NEW MEXICO 88003
(505) 526-3003

330 N. RICHARDSON
ROSWELL, NEW MEXICO 88201
(505) 623-6010

November 6, 1980

The Honorable Dave Durenberger
United States Senate
Washington, D.C. 20510

Dear Senator Durenberger:

I was extremely pleased to have received the information regarding Senate Bill 3030. It is obvious that you and your colleagues are aware of the difficulties involved in convincing American commuters to change their habits. Your provisions, if accepted, will be invaluable in promoting the concept of ridesharing, and should be recognized as a significant step towards alleviating our energy and air pollution problems.

Copies of your material will be forwarded to other interested agencies and individuals to afford them the opportunity to voice their support of your endeavors. Please notify me if there is anything more my office can do to further this effort.

Sincerely,

Linda Wampler

Linda Wampler
Training Specialist

NEW MEXICO ENERGY EXTENSION SERVICE

OFFICE OF THE MAYOR

600 EAST TRADE STREET

City of Charlotte

Charlotte, North Carolina 28202

November 17, 1980

Honorable David Durenberger
United States Senate
Washington, D. C. 20510

Dear Senator Durenberger:

The City of Charlotte sees ridesharing serving a major role in transportation for the future. We have had an active rideshare program in this area since 1978 and plans are underway to expand ridesharing activities.

A key factor to the success of any rideshare program is the incentives available to employer sponsors and individual commuters.

The City of Charlotte supports Senate Bill 3030, the Computer Transportation Energy Efficiency Act of 1980. This legislation would provide several new tax incentives to encourage ridesharing for the commuter trip. The incentives are offered to those who do rideshare as opposed to restricting persons who do not.

This legislation has potential for positive impacts on energy, air quality and congestion without taking anything away from those who choose not to take advantage of the incentives.

I believe that SB 3030 will make a significant contribution to both local and national energy and transportation policy.

Sincerely,

Eddie Knox

EDDIE KNOX

NORTH DAKOTA
STATE HIGHWAY DEPARTMENT

CAPITOL GROUNDS, BISMARCK, NORTH DAKOTA 58505

R. E. BRADLEY
Chief Engineer

ARTHUR A. LINK
Governor of North Dakota

WALTER R. HJELLE
Commissioner

November 3, 1980

The Honorable David Durenberger
United States Senate
Russell Senate Office Building
Washington, DC

Dear Senator Durenberger:

This is in response to your October 17 letter regarding legislation to encourage ridesharing. The sort of legislation which you and your colleagues in the Senate are supporting is precisely what is needed to stimulate aggressive ridesharing throughout the nation. The provisions for tax exclusions and tax credits for car pools and van pools are sorely needed incentives to arouse public interest in such programs. I commend you and your fellow senators on your efforts in pursuing this timely recourse.

The North Dakota State Highway Department is also doing its share of energy conservation. Of the approximately 400 employees of the Highway Department's central office building, in Bismarck, over 50 percent are either car pooling, van pooling, bicycling or walking to work.

On another point, I would like to correct the number of Highway Department sponsored van pools in North Dakota. Your listing in the Congressional Record shows only 13 pools. I am pleased to say that we now have 51 vanpools successfully operating in the state. With the high cost of financing (15% to 20% interest) for private automobile loans, government sponsored van pooling has become a very sensible alternative to purchasing smaller, limited capacity passenger cars. Under our present van pool program, we provide 75 percent interest-free loans to employers or individuals for van purchases by use of federal highway funds. I am certain that we would see an even greater interest in van pooling if Congress would change the funding requirements so that 90 percent interest-free loans could be offered, as was the case when the program was first established.

In addition to the interest free loans, now available, any tax incentives provided would greatly benefit the national effort to conserve energy in transportation.

Therefore, I wholly support your attempts to introduce this worthwhile legislation.

Sincerely,

Bill Weimer
Public Transit Coordinator
Transportation Services Division

WW/sf

mid-ohio
regional
planning
commission

814 SOUTH HIGH STREET • COLUMBUS OHIO 43215 • PHONE (614) 228-2663

Chairman: Robert C. Parkinson
Director: William C. Habig

October 31, 1980

The Honorable Dave Durenberger
United States Senate
Senate Office Building
Washington, D.C. 20510

Dear Senator Durenberger:

Thank you for forwarding the proposed legislation (SB 3030) for comment.

The Mid-Ohio Regional Planning Commission supports additional incentives to expand the constituency for Ridesharing. We will indicate our support to Senators Glenn and Metzenbaum and request an affirmative vote.

From my recent experience assisting major employers in the Columbus metropolitan area, I have found that a number of corporations are willing to sponsor Rideshare programs but are reluctant to underwrite total administrative costs. Tax credits based upon employee participation levels and the 10% energy credit increase will significantly expand company sponsorship in this region. At the present time, the 10% energy credit is considered too minimal to justify the paperwork for submittal.

Currently the Ohio Association of Regional Councils is introducing state legislation to remove existing statutory restrictions which impede Ridesharing. New Ohio legislation in conjunction with IRS incentives at the federal level will greatly accelerate the formation of Rideshare programs as energy costs continue to increase.

I wish you much success in this endeavor.

Very truly yours,

Dorothy W. Cousineau

Dorothy W. Cousineau
Regional Ridesharing Coordinator

DWC/kd

cc: Mohamed Ismail
D. Bruce Mansfield

EGG-RIDE
THE TULSA METROPOLITAN AREA PLANNING COMMISSION
200 CIVIC CENTER
TULSA, OKLAHOMA 74103

November 18, 1980

Honorable Dave Durenberger
U. S. Senator
Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Durenberger:

You have our deep appreciation and support for your interest in ridesharing as an effective means of reducing energy consumption, air pollution and traffic congestion.

We strongly support Senate Bill 3030 as an effective step in encouraging private firms to expand their ridesharing efforts. The tax credits you propose will give the private sector, both companies and individuals, the needed incentive to begin the ridesharing effort.

The lack of adequate transportation prohibits potential employees from traveling any length of distance to a labor market. With ridesharing, employers can attract employees from distant labor markets and the financial limits of feasible transportation will be lifted. This can only serve to boost our economy.

If our Ridesharing office can help you in any way, please let us know.

Sincerely,

D. Darnell

Dudlee Darnell
Rideshare Coordinator

DD:de

VICTOR ATIYEH
GOVERNOR

Department of Transportation

TRANSPORTATION BUILDING, SALEM, OREGON 97310

September 17, 1980

IN REPLY REFER TO FILE NO.

PLA 10

The Honorable David Durenberger
United States Senator
353 Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Durenberger:

The Oregon Department of Transportation is developing a statewide ridesharing program. We will be working with our legislature to provide many of the incentives to ridesharing that are contained in your Commuter Transportation Energy Efficiency Act.

The leverage that will be provided to our ridesharing program by S. 3030 will help make the success of ridesharing in Oregon even greater. It is important that these incentives are established. Ridesharing will sell itself once it gets going, but it needs a little push. S. 3030 will certainly help to provide that push.

Sincerely,

F. B. Klaboe
Director

UNION RAILROAD COMPANY

M. R. SEIPLER
GENERAL MANAGER

EAST PITTSBURGH, PA. 15112

November 14, 1980

The Honorable Dave Durenberger
United States Senate
Senate Office Building
Washington, D.C. 20510

Dear Senator Durenberger:

The Union Railroad Company, with operations in Allegheny County (Pittsburgh District), Pennsylvania, would like to go on record as being strongly in favor of S.3030, which would provide certain tax incentives to encourage carpools and vanpools. You and the eight colleagues who joined you in sponsoring this legislation are to be commended for this forward-looking effort to help employers justify such pooling arrangements.

Our company is seriously considering car and/or vanpooling incident to a proposed major new work facility not served by existing public transit routes, and S.3030 would be most helpful to us in justifying the provision of some form of pooling for the many employees involved.

We feel that thousands of businesses, nationwide, would find S.3030 an incentive to investigate the merits of ridesharing, which should go a long way toward helping the nation solve its energy problems.

Sincerely,

M R Seipler

General Manager

BESSEMER AND LAKE ERIE RAILROAD COMPANY

600 GRANT STREET • P. O. BOX 536 • PITTSBURGH, PENNSYLVANIA 15230

M. SPALDING TOON
PRESIDENT

November 19, 1980

Honorable Dave Durenberger
United States Senate
Washington, DC 20510

Dear Senator Durenberger:

The Bessemer and Lake Erie Railroad Company is greatly interested in S.3030, introduced recently by you and several colleagues, which would provide tax incentives for ridesharing through the use of carpools and vanpools.

Our company, which operates in Western Pennsylvania and Northeastern Ohio, is considering the possibility of utilizing car and vanpooling in getting employees to and from work locations not served by public transit. The provisions of S.3030 would not only assist the Bessemer and its involved employees in justifying economically these possible pooling arrangements, but would also represent a significant reduction in the consumption of gasoline as a contribution toward solution of the nation's energy crisis.

We strongly urge favorable consideration of this legislation by the Congress.

Sincerely,

M. S. Toon

President

NORTHUMBERLAND COUNTY PLANNING COMMISSION

SECOND & CHESTNUT STREETS ● COURT HOUSE ANNEX

SUNBURY, PENNSYLVANIA 17801

October 24th, 1980

The Honorable Dave Durenberger
United States Senator
United States Senate
Washington, D.C. 20510

Dear Senator Durenberger:

I am in receipt of your letter of October 17th, 1980 in regards to the introduced Senate Bill 3030, the Commuter Transportation Energy Act of 1980. The Northumberland County Planning Commission is in support of any incentive which promotes and encourages a ride-sharing program. At present Northumberland County is actively involved in establishing a vanpool for County employees. Due to the fact that the County is composed of many rural areas and only three municipalities having a population of 10,000, many transportation problems exist. Private commuter bussing has been tried many times, all being unsuccessful. The only feasible method of commuter transportation seems to be with carpools and/or vanpools. Mass transit systems that work in larger urbanized cities do not lend themselves to any economically feasible system in areas with rural characteristics.

Enclosed is a copy of a survey taken by the Planning Office determining those employees interested in a proposed vanpooling program. 85% of those surveyed (total surveyed: 172) were in favor of such a system. 48% currently ride in a carpool, which demonstrates that the interest and need exists and therefore have resorted to developing their own method of ridesharing with additional incentives. We feel that this percentage would increase substantially and further decrease our nations current energy consumption.

With new legislation and innovative programs initiated by government agencies, the country can significantly reduce our dependency on oil-producing countries. If this office can be of any further assistance, please feel free to contact us.

Sincerely yours,

Keith A. Lloyd
Assistant Planning Director
NCPC

encl.

JOHN M. COX
Vice President, Human Resources

October 31, 1980

Senator Dave Durenberger
United States Senate
Washington, D.C. 20510

Dear Senator Durenberger:

As Coordinator of the Sun Ship Inc. Van Pool Program, I was very pleased to hear about bill S. 3030 which you recently introduced to the senate. We at Sun Ship have been leasing ten (10) vans during the past year for the purpose of ridesharing for our employees.

The program has been a big hit with both management and employees, however, because of spiraling cost of fuel and vehicle leasing we have been forced to raise our charges to the riders, however, in this increase we are still not certain that all of our cost will be covered. I feel that the tax credits mentioned in bill S. 3030 would help our program a great deal.

Bill S. 3030 if enacted would be a big push for ridesharing and energry conservation. Best of luck to you Senator.

Sincerely,

Edward J. Kordalski

EDWARD J. KORDALSKI
Human Resources Representative

EJK/pd

CITY OF RAPID CITY
SOUTH DAKOTA 57701
In the Beautiful Black Hills

1980 OCT 31 AM

STATUTORY PLANNING COMMISSION
CITY PLANNING DEPARTMENT
22 MAIN STREET
RAPID CITY, SOUTH DAKOTA 57701
TELEPHONE: AC 605-394-4120

October 27, 1980

Honorable David Durenberger
Russell Senate Office Building
Washington, DC 20510

Dear Senator Durenberger:

Thank you for your letter of October 17, 1980 inviting me to comment on S. 3030, "The Commuter Transportation Energy Efficiency Act of 1980". I strongly support this legislation as I feel that it is an important step in encouraging expanded ridesharing activities. The incentives provided by this legislation could have very positive energy conservation (and financial) impacts; especially in our more "rural" states such as South Dakota. South Dakota probably has more miles of roads per capita than any other state in the union. Yet, due to our small population, the financial resources available to maintain our highway system are very limited. Any incentives which would encourage more efficient utilization of our highway system merit special consideration.

Unlike odd-even or minimum purchase requirements, or gasoline rationing, which are almost punitive responses to the energy problem, ridesharing is among the few strategies which represent a positive, personal approach for dealing with a critical problem.

In terms of other legislative actions which could facilitate and encourage ridesharing, I feel that motor carrier and insurance laws should be modified to address the special status of carpools and vanpools. Specifically, ride-sharing vehicles should be exempted from the laws requiring motor vehicles transporting passengers for compensation to qualify as common or contract carriers.

If you would like any information on our local ridesharing programs or if I can be of any assistance in your efforts, please feel free to call me.

Sincerely,

Robert W. Stokes

Robert W. Stokes, AICP
Senior Planner

RWS/ps

cc: Mayor LaCroix w/ enclosures
Senator George McGovern w/enclosures

Metropolitan Transit Authority

November 17, 1980

The Honorable David Durenberger
The State Senate
Russell Senate Office Building
Washington, D. C.

Dear Senator Durenberger:

I agree with your statement that ridesharing offers a most significant contribution to solving our nation's energy problems. I further agree that your proposed Commuter Transportation Energy Efficiency Act of 1980 will enhance the ridesharing movement in this country.

The MTA has recently initiated a comprehensive ridesharing program with the intention of promoting ridesharing to citizens of the Metropolitan Nashville area. Our first year goals include involving 50 major employers in the ridesharing program, increasing ridesharing among employees by 10-20%, and reducing energy consumption and air pollution associated with employees work trips by 10-20%. These are achievable goals if the support for ridesharing is strong enough to induce the major employers in Nashville to participate. The tax incentives provided in your proposed legislation would definitely support our efforts to encourage individuals and major employers to participate in the MTA ridesharing program.

MTA supports the concept of ridesharing as an energy efficient means of transportation. MTA will continue to promote ridesharing and provide active support on behalf of your proposed legislation. Let me know if I can be of further assistance.

Yours truly,

Dr. Ralph H. Hines

Dr. Ralph H. Hines
Chairman

RHH/bgt

cc: Bill Boner

60 Peabody Street Nashville, Tennessee 37210 Telephone (615) 242-1622

Memphis and Shelby County
Office of Planning and Development

CITY HALL 125 NORTH MAIN ST. MEMPHIS, TENNESSEE 38103 (901) 528-2601

October 31, 1980

The Honorable Dave Durenberger
United States Senator
United States Senate
Washington, D. C. 20510

Re: Senate Bill S.3030

Dear Senator Durenberger:

Thank you for providing our office with a copy of Senate Bill S.3030. It is our understanding that the bill was introduced on August 6, 1980 and, if enacted, it would amend the Internal Revenue Code to provide increased individual and employer tax incentives for ridesharing arrangements. Based on a close examination of the text of this proposed legislation, we believe that S.3030 has considerable merit. Passage of the bill would (1) help promote and expand ridesharing programs across the nation, and (2) establish a federal precedent which may encourage state governments to remove legal and regulatory barriers to ridesharing arrangements.

The Memphis-Shelby County Office of Planning and Development and the Tennessee Energy Authority have sponsored an employer-based ridesharing program in the Memphis area since 1979. Although the program is new, we have already observed the manifold benefits that can accrue to employers, employees, and an entire community through the encouragement of carpooling and vanpooling. As a result of the Memphis Rideshare Program, which has so far cost $75,000, over 1400 commuters have begun carpooling, vanpooling, or riding public transit to and from work. Expressed on an annual basis, the benefits associated with this increased ridesharing include: 405,300 gallons of gasoline conserved; 365 tons of carbon monoxide air pollution removed; and, over $1,000,000 in commuting costs saved. It has been calculated that the cost to conserve one barrel of oil through the program has been $1.14.

As you must know, the impressive benefits realized through the Memphis Ridesharing Program are not unusual. Ridesharing programs across the country are producing significant energy savings while simultaneously reducing air pollution, traffic congestion and parking demand. The fact that these programs accomplish all of these benefits in a manner that returns more in terms of savings to commuters and employers than the cost of the programs is, at the very least, noteworthy.

The tax incentives for ridesharing that would be created by the passage of Senate Bill S.3030 would provide a valuable boost to ridesharing programs such as ours. The incentives would make it easier for state and local ridesharing agencies to market carpooling and vanpooling to employers and their employees. In our experience we are finding that employers are coming to recognize that the current availability of relatively low-cost fuel is, at best, a short term proposition, and that the transportation of employees is a legitimate concern. But because of actual or perceived legal and regulatory barriers, many employers are initially reluctant to get involved in vanpooling and carpooling. With provisions for a business energy investment credit for purchase of qualified commuter highway vehicles, and an employer tax credit to defray the administrative costs of an employer-sponsored rideshare program, S.3030 may prove to be a deciding factor in encouraging many of these businesses to test the economic feasibility of ridesharing arrangements.

Another consideration is that passage of S.3030 may encourage state governments to remove legal and regulatory impediments to ridesharing arrangements. This is because state tax laws and rulings generally rely upon the basic federal definitions of "gross income," "adjusted gross income," and "taxable income" as a basis for calculating state income taxes. While not certain, it is likely that many states will follow the federal precedents which would be established by S.3030 in determining the tax consequences of ridesharing arrangements. This would create an added boost for ridesharing programs in many areas of the country.

In sum, Senate Bill S.3030 is an opportunity for the federal government to effect legal and regulatory changes that will

help to promote ridesharing arrangements, and S.3030 should make a significant contribution toward a stronger, more integrated national energy and transportation policy. We encourage you and your colleagues to continue to work towards passage of S.3030.

Sincerely,

Alan D. Gray

Alan D. Gray
Rideshare Program Coordinator

ADG:ml

NATIONAL ASSOCIATION OF VAN POOL
12208 WEST KINGSGATE DR
KNOXVILLE TN 37922

Mailgram

EXHIBIT

4-0081428289 10/15/80 ICS IPM47ZZ CSP WSHB
6159664507 MGM TDMT KNOXVILLE TN 169 10-15 0826A EST

SENATOR DAVID DURENBERGER
WASHINGTON DC 20510

SUBJECT ENDORSEMENT OF S83030
DEAR SENATOR DURENBERGER
ON BEHALF OF THE BOARD OF DIRECTORS IN THE 390 CURRENT MEMBERS OF THE NATIONAL ASSOCIATION OF VAN POOL OPERATORS I WISH TO EXPRESS OUR APPRECIATION TO YOU AND YOUR COLLEAGUES FOR INTRODUCING S.3030 THE NAVPO BOARD UNANIMOUSLY ENDORSE THE LEGISLATION AND YOUR EFFORTS IN SUPPORT OF RIDE SHARING IN GENERAL AND VAN POOLING IN PARTICULAR AT THEIR QUARTERLY BOARD MEETING OCTOBER 10-11 OTHER STRONG ENDORSEMENTS HAVE BEEN VOICED BY INDIVIDUALS IN REGIONAL CHAPTERS WE ANTICIPATE MANY OF OUR MEMBERS WILL INDIVIDUALLY EXPRESS THEIR ENDORSEMENT TO THEIR LOCAL SENATORS AND REPRESENTATIVES AND REQUEST THEIR SUPPORT FOR PASSAGE
THANK YOU AGAIN FOR YOUR UNDERSTANDING OF THE PROBLEMS OF RIDE SHARING AND YOUR EFFORTS TO ALLEVIATE THEM WE SINCERELY BELIEVE THAT PASSAGE OF THIS LEGISLATION WILL STIMULATE AND ENCOURAGE ADDITIONAL GROWTH IN SHARED MODES OF COMMUTER TRANSPORTATION AND IS IN THE BEST NATIONAL INTEREST AS PART OF THE STRUGGLE FOR ENERGY INDEPENDENCE
RESPECTFULLY
ED MARKS EXECUTIVE DIRECTOR NAVPO

08123 EST

MGMCOMP MGM

TO REPLY BY MAILGRAM, SEE REVERSE SIDE FOR WESTERN UNION'S TOLL - FREE PHONE NUMBERS

TEXAS EASTERN
Transmission Corporation

November 11, 1980

The Honorable David Durenberger
United States Senate
Washington, DC 20510

Re: Support of S.3030
Commuting Transportation
Efficiency Act of 1980

Dear Senator Durenberger:

Encouragement of ride sharing subsidies to employees through favorable tax legislation for sponsoring employers, such as S.3030, is an effective energy conservation measure.

Texas Eastern's Ride Share Program now involves 1,188 Houston office employees (66%):

RIDE SHARING EMPLOYEES
(10-01-80)

PROGRAM	PARTICIPANTS
Car Pool	184
Bus	392
Van Pool	612
Total Ride Share	1,188

These programs represent considerable expense to the Company, but are a necessary part of the modern, energy conscious, socially aware business environment.

Increased employer sponsorship of ride sharing will produce immediate energy savings and contribute to the long term energy awareness among all employees.

Sincerely,

C. B. "Neil" Hill
Manager
Administrative Services

P.O. BOX 2521 HOUSTON, TEXAS 77001 (713) 759-3131

Robert F. McDermott
Brigadier General, USAF (Retired)
President

November 26, 1980

The Honorable David Durenberger
United States Senator
Senate Office Building
Washington, D.C. 20510

Dear Senator Durenberger:

United Services Automobile Association (USAA) recently received a copy of S.3030 which you introduced to provide tax incentives for ridesharing. As a member of the National Association of Vanpool Operators, USAA strongly supports the bill as an effective step in reducing the nation's energy consumption.

In 1977, USAA instituted a Vanpool Program for its employees to supplement our existing Carpool Program. To-date, we have some 320 carpools and 100 vans serving 2,150 employees and saving an estimated 620,000 gallons of gasoline annually.

The tax incentives outlined in S.3030 will undoubtedly encourage both individuals and private firms to expand ridesharing efforts. USAA supports this legislation as an incentive to ridesharing, which we feel is one of the quickest and most cost-effective means of reducing energy consumption, and we want to commend you for your efforts in this area.

Sincerely,

ROBERT F. McDERMOTT
President

USAA USAA Building • San Antonio, Texas 78288

OCT -2

TEXAS ENERGY AND NATURAL RESOURCES ADVISORY COUNCIL
200 EAST 18TH STREET, AUSTIN, TEXAS 78701

September 24, 1980

The Honorable David Durenberger,
Minnesota Senate
S. 550 East, Butler Square Bldg.
100 N. 6th
Minneapolis, Minnesota

Dear Senator Durenberger:

I was very pleased to learn that you had introduced the Commuter Transportation Energy Efficiency Act (S.3030) to the Senate Finance Committee. I strongly support this bill and believe it will greatly encourage the ridesharing effort.

Since Texas, like Minnesota, has a great deal of experience in the area of vanpooling, I would be glad to provide you with any information or figures in support of this bill.

Respectfully,

James P. McIntyre

James P. McIntyre
Program Coordinator

JPM/gd

SEP 30 1980

Applied Ridesharing Technology Inc.

6 N Sixth Street Richmond, Virginia 23219
804-649-1660

1980 OCT 29 AM 7 [illegible]

October 27, 1980

Honorable David Durenberger
Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Durenberger:

As program manager for the Richmond area ridesharing program, COMPOOL, I feel S. 3030, the Commuter Transportation Energy Efficiency Act of 1980, would be of much interest to the Employee Transportation Coordinators (ETCs) in the Richmond area.

I am enclosing the list of firms, and their respective ETCs, participating in ridesharing programs. By approaching each firm, you should be able to enlist support for S. 3030.

COMPOOL has actively sought to institute ridesharing programs at the employer level as a self-help proposition, and S. 3030 will be a valuable tool in this effort.

Please keep COMPOOL informed as to the progress of S. 3030. Thank you.

Sincerely,

Philip L. Winters

Philip L. Winters
Program Manager

Enclosure

PDC PENINSULA
PLANNING DISTRICT COMMISSION
2017 CUNNINGHAM DRIVE HAMPTON, VA 23666

A.C. 804 - 838 - 4238

November 20, 1980

Honorable David Durenberger
United States Senator
Washington, D.C.

Dear Senator Durenberger:

The Peninsula Metropolitan Planning Organization supports the intent of S.3030, the Commuter Transportation Energy Efficiency Act of 1980, which would provide several tax incentives to encourage commuter ridesharing.

Many large firms, including Newport News Shipbuilding and Dry Dock Company, Inc., the largest private employer in the Commonwealth of Virginia, are located in this region. In addition, the Peninsula area is also actively involved in a major ridesharing effort, directed by the mass transportation operator in the urbanized area, the Peninsula Transportation District Commission. This proposed legislation could have a significant impact on ridesharing efforts in this region.

Thank you for the opportunity to comment on the proposed legislation. When enacted, it should greatly assist the energy conservation and air quality goals of urban areas thoughout the nation.

Sincerely yours,

Henry M. Cochran
Executive Director

HMC:src

October 21, 1980

1980 OCT 23 AM 8:47

3900 DeSoto Court
Woodbridge, Virginia 22193

The Honorable Dave Durenberger
United States Senator
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Senator Durenberger:

The Virginia Van Pool Association is a non-profit organization for Virginia Van Pool owners and operators. Since its beginning in March, 1979, our register of Northern Virginia Vans has grown to over 250 with new ones beginning at about a dozen per month.

The efforts of the VVPA have been directed toward all aspects of Van Pooling, including financing, operations, insurance, ride matching, standard rules, legislative efforts and fuels. We are the largest organized group of independent (owner/operator) van pools in the United States. Recently VVPA was chosen to receive a Presidential Energy Efficiency Award. It will be presented in San Francisco on October 23rd.

Members of the VVPA have been working closely with local, state and federal officials to provide assistance and insight into the successful operation of owner/operator van pools. The consensus of the membership support your concepts included in S. 3030 that you so kindly provided. There were some reservations however, to the inclusion of small (less than eight) commuter vehicles under the program.

The VVPA would be more than happy to provide any additional information regarding our operations or members would be available for public testimony regarding van pools.

Respectfully,

John G. Oehlenschlager

John G. Oehlenschlager
President
Virginia Van Pool Association

STATE OF
WASHINGTON

Dixy Lee Ray
Governor

DEPARTMENT OF TRANSPORTATION KF-01
Highway Administration Building, Olympia, Washington 98504 206/753-6005

1980 NOV 25 AM 9:33

November 20, 1980

The Honorable Dave Durenberger
United States Senator
United States Senate
Washington, D.C. 20510

Dear Senator Durenberger:

I wish to thank you for forwarding, for my review, information pertaining to S.3030, the Commuter Transportation Energy Efficiency Act of 1980 relating to new tax incentives to encourage ridesharing for commuting.

I believe this proposed Act certainly would provide a considerable incentive to encourage vanpooling for the private sector employers, individually-owned vehicles, and third-party operators, as well as the incentives proposed to encourage carpooling. Financial incentives, I believe, are a key factor to provide the necessary catalyst to greatly expand vanpooling and carpooling activity nationwide.

It may be of interest to you that the Washington State 1980 Legislature passed HB 1508 which exempts the sales or use tax and the Motor Vehicle Excise Tax for vehicles used for vanpooling by seven or more on a regular basis.

Sincerely,

ROBERT S. NIELSEN
Assistant Secretary for
Public Transportation and Planning

George L. Smith

By: GEORGE L. SMITH, Manager
Public Transportation Office

GLS:lc
LR

Spokane Regional Planning Conference
TRANSPORTATION STUDY DIVISION
Phone 509-456-4325

October 28, 1980

The Honorable Dave Durenberger
Old Senate Office Building
Washington, D.C. 20510

Dear Senator Durenberger:

Thank you for correspondence dated October 17, 1980 explaining S. 3030, the Commuter Transportation Energy Efficiency Act of 1980. Ridesharing activities are an essential element in the adopted Transportation Plan and the adopted Air Quality Implementation Plan for the Spokane metropolitan area. Hence, legislation which will benefit and extend the use of this necessary transportation "mode" is supported and encouraged by the Spokane Regional Planning Conference's urban Transportation Planning Process.

We will appreciate receiving future information and the status on pending legislation.

Very truly yours,

Robert A. Vaughan, P.E.
Transportation Study Director

RAV/jf

ADDRESS REPLY TO: SPOKANE REGIONAL PLANNING CONFERENCE, ROOM 353, CITY HALL, SPOKANE, WASHINGTON 99201

REYNOLDS ALUMINUM
REYNOLDS METALS COMPANY - 1620 EYE STREET, N.W.
WASHINGTON, D.C. 20006 202/833-3760

November 24, 1980

The Honorable David F. Durenberger
United States Senate
Washington, D. C. 20510

Dear Senator Durenberger:

I wish to acknowledge your letter of November 12 to Mr. Edward T. Duffy of our Company concerning your bill to provide tax incentives to encourage ridesharing.

The Reynolds Metals Company strongly supports the concept of your bill. I commend you for your initiative and hope that you will be successful in getting the bill enacted in the next session of Congress.

Sincerely yours,

John J. Alexander, Jr.
General Director
Corporate Administration

Dane County Regional Planning Commission
Room 116 City-County Bldg. Madison, Wisconsin 53709 Tel. 608 266-4137

November 19, 1980

The Honorable Dave Durenberger
United States Senator
United States Senate
Washington, D.C. 20510

Dear Senator Durenberger:

I was delighted to read S. 3030, the Commuter Transportation Energy Efficiency Act of 1980 that you are introducing.

The reluctance of some employers to wholeheartedly support ridesharing programs is addressed in this bill in several ways including the innovative tax exclusion for payment of transportation costs by an employer for an employee. And, speaking as a county ridesharing coordinator, the tax credit on administrative costs of an employer-sponsored ridesharing program removes another barrier to realizing the potential of ridesharing in commuter transportation.

These clarifications and substantive legal inducements are encouraging steps in the development and expansion of ridesharing. Ridesharing can play an important role in a balanced transportation system and with Congressional leadership, like S. 3030, ridesharing could rapidly close ground on achieving energy conservation goals.

Copies of this letter are being sent to our Congressional delegation in the hope they will consider giving their support to S. 3030.

Sincerely,

Ward Paxton

Ward Paxton
Ridesharing Coordinator

WP:mml

cc: Senator Gaylord Nelson
Senator William Proxmire
Representative Robert Kastenmeier

RPC

THE KAHLER CORPORATION
20 SECOND AVENUE SOUTHWEST ROCHESTER, MN. 55901, USA 507-282-2581

1980 DEC 23 AM 2:03

December 19, 1980

Senator David Durenberger
United States Senate
Committee on Finance
Washington, D.C. 20510

Dear Senator:

Your letter enclosing information on S.3030, The Commuter Transportation Energy Efficiency Act couldn't have come at a more opportune time. I have the pleasure of serving on the Rochester Chamber of Commerce's Community Relations Committee and we are commencing a study on "ride-sharing" in this community.

So many of the Rochester service employees come from communities just outside of the city, that it is a fact that the wasteage and cost of gasoline to get them to work is considerable. We do have many persons pooling at this time, but with the advantages listed in S.3030 as to tax credit, etc., it will become more beneficial to them, as well as to others who we might involve in this energy saving concept.

We do support your actions and endorse them heartily. Will keep you informed as to our progress, and ask that you advise us of any action we might take to get this bill passed, and soon.

Yours most sincerely,

R. E. Campbell, Manager
Community Relations Department

ROCKY FLATS PLANT
ENERGY SYSTEMS GROUP
P. O. Box 464
Golden, Colorado 80401
(303) 497-7000
Contractor to
U. S. Department of Energy

Rockwell International

December 8, 1980

Honorable David Durenberger
Russell Senate Office Building
Washington, DC

Dear Senator Durenberger:

We commend you on your efforts to secure reasonable incentives to promote ridesharing programs through the introduction of S3030. Ridesharing is currently one of the most feasible means of conserving energy and is readily available to every American. We strongly support S3030 because we believe it will be extremely beneficial in getting a greater number of employers involved in ridesharing and act as an additional stimulus in the formation of privately-owned vanpools.

Currently, the national average ridership for commuter automobiles is less than two persons per car. Transportation is responsible for about 25 percent of the total national energy consumption and consumes more than 50 percent of all petroleum used in the United States. The automobile consumes more than 50 percent of the petroleum used by the entire transportation sector. Because the automobile consumes such a large portion of our petroleum, it is imperative that we make an all-out effort to increase the average ridership for commuter automobiles. It is reasonable to assume that this can be effectively done through promoting ridesharing.

We know how beneficial a ridesharing program can be because we have been operating a vanpool program for more than 2 years. Our fleet totals 15 vans and we have 20 more on order.

During the 28 months that the vanpool program has been in operation, we estimate that we have reduced vehicle miles traveled by more than 4 million miles, saved 281,000 gallons of gasoline, and prevented 92 tons of pollutants from entering the atmosphere. This is a noteworthy accomplishment which was made possible with only 15 vans. By February 1981, we will have 35 vans. This will enable us to achieve even greater savings. We project that in a 12-month period we will reduce vehicle miles traveled by at least 5 million miles, save 376,000 gallons of gasoline and prevent 123 tons of pollutants from entering the atmosphere.

The future of ridesharing is a very bright one and could be even brighter with the enactment of S3030. We feel that now is the time to move ridesharing

into the mainstream of energy conservation and, therefore, offer our assistance to you and your staff in pressing for the swift passage of this bill.

Sincerely,

Eulus Dennis

Eulus Dennis
Employee Transportation Specialist

ED/ds

Transco Companies Inc.

2700 South Post Oak Road
P. O. Box 1396
Houston, Texas 77001
713-871-3000

William H. Cook
Vice President

January 8, 1981

The Honorable Dave Durenberger
United States Senate
Washington, D.C. 20510

Dear Senator Durenberger:

I wish to state my support of Senate Bill 3030, the Commuter Transportation Energy Efficiency Act of 1980.

In a city like Houston it is imperative that steps be taken to reduce the traffic crunch which occurs during commuting hours and which is already to an unacceptable level of traffic flow. Continued growth in Houston will paralyze the city's entire transportation system befong long. A massive effort by business to provide incentives to ride in van pools could go a long way in a short period of time in solving the dire situation which exists here.

Please continue your efforts to promote ride sharing to individuals and business.

Sincerely,

William H. Cook

WHC/bs

RAYMOND INTERNATIONAL BUILDERS, INC.
2801 South 1093rd Jersey Rd. • P.O. Box 22718 • Houston, Texas 77027

William T. Sewell
Vice President
Technical & Administrative Services
(713) 623-1381

January 8, 1981

The Honorable Dave Durenberger
United States Senate
Washington, D.C. 20510

Dear Senator Durenberger:

I wish to state my support of Senate Bill 3030, the Commuter Transportation Energy Efficiency Act of 1980.

Please continue your efforts to promote ridesharing through incentives to business and individuals.

Sincerely,

W.T. Sewell

WTS/dh

MICHIGAN WISCONSIN PIPE LINE COMPANY
MEMBER OF THE AMERICAN NATURAL RESOURCES SYSTEM
5075 WESTHEIMER, SUITE 1100 GALLERIA TOWERS WEST
HOUSTON, TEXAS 77056
(713) 623-0300

January 5, 1981

The Honorable Dave Durenberger
United States Senate
Washington, D. C. 20510

Dear Senator Durenberger:

I wish to state my support of Senate Bill 3030, the Commuter Transportation Energy Efficiency Act of 1980.

Please continue your efforts to promote ridesharing through incentive to business and individuals.

Sincerely,

Tom Parmeson

Tom Parmeson

TP/sv

NEW YORK STATE
DEPARTMENT OF TRANSPORTATION
William C. Hennessy, Commissioner

Region 8 Office: 4 Burnett Boulevard, Poughkeepsie, New York 12603 (914) 454-8000

1980 DEC 29 AM

December 23, 1980

Hon. David Durenberger
Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Durenberger:

This is in response to your letter regarding S.3030, the Commuter Transportation Energy Efficiency Act of 1980. We have reviewed the proposed legislation and believe it to be a positive step in the promotion of ridesharing and transit useage.

We do have several comments regarding the proposed legislation that we hope may be helpful. Specifically:

1. The New York State Department of Transportation has found that the personalized informal approach to ridesharing promotion, the Ridesharing Coordinator program, is significantly more effective in increasing ridesharing than traditional methods. This method is labor-intensive but could be used in conjunction with other ridesharing or even personnel functions. Because personalized matching is a new concept, it is not well known. Specific mention under Title IV would encourage its use among employers.

2. While the exclusion of fees paid to drivers of ridesharing vehicles from gross income, Title II, will increase the interest of employees in driving, maintaining vehicles, and finding riders for their vehicle there is (1) no limit to these fees creating the possibility that some passengers may be seriously overcharged for rides, and (2) the wording may also allow taxi drivers, etc. to also exclude their income. Our suggestion is (1) that a specified limit, of say 10% over the cost of the trip, may be charged passengers and excluded from the gross income of the driver, and (2) that the driver may not operate the vehicle as a part of his employment.

3. It is our understanding that under current regulations companies that make use of Federal-aid highway funds in the form of interest free loans to purchase vanpool vehicles are not eligible for investment credits. It is not clear if such credits would now be permitted as a result of the proposed legislation. Such credits would be a valuable incentive.

4. The provision of employer paid transportation to employees if made tax free would be a good "perk" for executives and white collar workers or a good means of increasing the real income of blue collar workers as a non-taxable fringe benefit. The encouragement of employer paid transportation would also assist in reducing unemployment among minority groups and teenagers who many times cannot keep jobs because they have no reliable means of getting to work.

Thank you for the opportunity to comment on this important legislation.

Very truly yours,

A. E. DICKSON
Regional Director

By Alan Bloom

Alan N. Bloom
Regional Planning & Development Director

ANB:RAP:ak

gerring

Your Kind of Style. Our Kind of Quality

January 5, 1981

Honorable David Durenberger
Russell Senate Office Building
Washington, DC 20510

Dear Senator Durenberger:

I am writing to express the support of Conversions By Gerring for Senate Bill S-3030 the commuter transportation energy efficiency act of 1980 you are sponsering.

As a major modifier of vans for vanpooling we share your realization that barriers to vanpooling must be erased. From our contacts throughout private industry it is our opinion that the incentives offered in your bill could be the stimulus needed to significantly advance ridesharing.

Please transmit our interest in this vital legislation to your colleagues in Congress. We wish you success in your legislative effort. Please let us know if we can be of assistance to you.

Sincerely,

Dale Crofoot

Dale Crofoot
Vice President
Vanpooling & Bus Division

RVIA

Conversions by Gerring, Inc. 25771 Miner Road, Elkhart, IN 46514 (219) 262-1512
Telex: 23-3126 Cable Code: GERRINGINC

CATERPILLAR TRACTOR CO.

Peoria, Illinois 61629

January 20, 1981

The Honorable David Durenberger
United States Senate
Washington, D.C. 20510

Dear Senator Durenberger:

Thank you for your recent letter, and for the copy of S3030. We wholeheartedly agree that this bill is an excellent start toward reducing some of ridesharing's red tape. We strongly support S3030. It will remove artificial barriers which now prevent people from participating in ridesharing programs ... or companies from initiating such efforts.

We are especially interested in Titles II through V of the bill. The fact that incentive fares are presently regarded as taxable income, which is dealt with in Title II, has presented us with numerous problems. As I'm sure you are aware, reprogramming data processing capability to provide appropriate deductions for ridesharing income could easily generate costs running into six figures. Merely avoiding this cost is an incentive in itself! The remaining titles would give all employers, large and small, further incentives ... i.e. enhanced investment credits, gasoline tax deductions, and several business tax credits ... to expand or create ridesharing programs.

We are convinced ridesharing can make a sizeable contribution in helping to resolve the United States' energy dilemma. We compliment you on S3030, The Commuter Transportation Energy Efficiency Act, and look forward to its early adoption.

If we can provide further assistance, please let us know.

Sincerely,

Stephen R. Hasty

Ridesharing Coordinator

SRHasty
Community Affairs
Telephone (309)675-4643
bg

COMMUTER POOL

VANPOOLS
BUSPOOLS
RIDEMATCHING
FLEXIBLE WORKING HOURS
PARKING MANAGEMENT

STEERING COMMITTEE
District Administrator
Washington State
Department of Transportation
Public Works Director
City of Renton
Traffic Engineer
King County
Director of Public Works
City of Kirkland
Manager of
Transit Development
Metro
Transportation Engineer
City of Bellevue
Traffic Engineer
City of Seattle

November 26, 1980

The Honorable Dave Durenberger
U.S. Senate
353 Russell Building
Washington D.C. 20510

Dear Senator Durenberger:

The Commuter Transportation Energy Efficiency Act of 1980, which you introduced in the Senate as S. 3030, is key legislation if ridesharing is to achieve its potential. It addresses most of the problems we have encountered in promoting ridesharing during the past six years in Washington State. While the Energy Tax Act of 1978 was a step in the right direction, it fell short of providing comprehensive incentives for energy conservation through ridesharing. We wholly support your efforts in S. 3030, and believe they will result in very substantial increases in ridesharing by individuals and by employers. We urgently need these conservation gains in the petroleum dependent transportation sector.

Our consultants and legal staff offer the following suggestions as needed changes which go further than S. 3030. The experience of Seattle-King County Commuter Pool supports their recommendations and I urge you to incorporate them if at all possible.

First, the 80/20 rule in Section 46 (c) (6) should be abrogated completely. S. 3030 makes changes which remove driver incentive mileage from the scope of the 80/20 rule. This is needed, but is only part of the needed solution. Many ridesharing promoters are encouraging vanpool operators to make their vans available for daytime use by social service agencies. There is a very definite need for vans to provide transportation for the elderly, the handicapped, day care centers and other similar needs. Public dollars are not adequate to ensure vehicle purchases to meet these needs. Privately owned commuter vans which would otherwise sit idle during the day can be utilized to meet these needs without additional capital investment. Under the current 80/20 rule, vanpool operators stand to forfeit their tax credit if they provide their vans to meet these social service needs. We believe this disincentive should be removed. A substitute rule, perhaps the 176 day rule used elsewhere in S. 3030, could ensure that the van continues to meet the primary objective, that is, to conserve energy though commuter ridesharing on a regular basis for a minimum of three years.

A similar argument may be made for allowing a commuter van to be utilized by the owner-operator for daytime business use. Notwithstanding the tax credit, a great many employees object to acquiring vehicles which are used only during commute hours. It offends their sense of business efficiency to have a fleet sit idle all day. As long as the vheicle is appropriately used for ridesharing, regularly for a minimum of three years, we should have no concern for its other utilization. If it wears out from excess mileage or use, the law provides for recapture of the

SEATTLE/KING COUNTY
COMMUTER POOL
Arctic Building, Room 600
704 Third Avenue
Seattle Washington 98104
(206) 625-4651

tax. Again, a rule akin to the 176 day rule found in S. 3030 would guard the prime objective of the incentive without the handicapping effects imposed by the 80/20 rule.

Secondly, the legislation should clearly articulate that the tax credit applies whether or not the ridesharing operator receives compensation for the ridesharing transportation provided. S. 3030, Sec. 202 proposed a new IRC Section 128 which excludes income derived from operating ridesharing from gross income for tax purposes. This implies that it is acceptable for a ridesharing operator to receive compensation. However, it is possible, if not probable, that the tax credit provisions would be interpreted to apply only when the ridesharing operator receives no income. This appears to be the current inclination of the Internal Revenue Service. A clear statement that the credit is available whether or not the ridesharing operator receives reimbursement would eliminate this problem of negative interpretation. We believe it is necessary.

Also, in Sec. 202 (a) the proposed language of new Sec. 128 is in terms of an "individual". Should not the language be in terms of "taxpayer" so that both employers and third party operators are covered as well as individuals? Businesses are seldom willing to take a risk when the best they stand to accomplish is to break even. In our experience, employers view vanpool programs for their employees as a risk with at best a hope of breaking even. In these tough economic times, few employers have the largess to foot the bill for nice public-minded projects such as vanpools for employees. This is particularly true for small and medium-sized firms which employ a majority of our workforce - 80% in Washington State. We need to involve these employers in ridesharing. To do so we need to provide enough of an incentive for the employer to perceive a genuine gain as a return on their vanpooling efforts. For these reasons we are persuaded that Sec. 202 (a) should be amended so that both the individual owner-operator and the employer operator enjoy the benefits of the new Section 128 income Exclusion.

On a related item, S. 3030, Sec. 401 allows a credit for ridesharing program costs, should any compensation or reimbursement be deducted from the amount of the costs prior to claiming the tax credit for those costs under that section?

Thirdly, S. 3030 allows individuals jointly providing ridesharing to share pro rata in the tax credit? Where employers jointly provide ridesharing, they should likewise be entitled to share pro rata in the tax credit. S. 3030 as written makes no such provision.

As small employers have pooled their employees to provide a broader base for ridesharing to increase the probability of success, they have in many instance become joint owners or joint lessors of the vehicles. Their motives relate to insurance and liability concerns or control and management. Current law and this proposal appear to allow none of the joint owners-operators to claim the credit. We believe they should be entitled to prorate the credit the same as individuals who own and operate jointly. This will encourage more and more small employers to participate in ridesharing and to abandon the old notion that ridesharing, particularly vanpooling, is only for large employers.

A final proofreading note: In S. 3030, Sec. I (c) Table of Contents, Title III, Sec. 302: "Investment credit not restricted to Employers" should read, "Investment credit not restricted to Employees".

With these amendments, we believe this bill can help achieve three imperative goals: 1) Conservation of the natural resources of this country needed to insure prosperity for future generations; 2) Relief from our dependence on foreign oil and a time buffer for developing alternative energy resources; 3) A shift of impetus for conserving this nations energy from governmental regulation to self-help among the businesses and individuals most likely to benefit from it. We believe this bill will significantly contribute to the achievement of these goals. Again, we wholeheartedly support your efforts and stand ready to assist in any way we can.

Sincerely,

William T. Roach

William T. Roach
Program Manager

WTR:df/mja:esd

GQ

STATEMENT OF THE UNITED STATES LEAGUE OF SAVINGS ASSOCIATIONS*
RE: S. 31 (TO AMEND SECTION 280A OF THE INTERNAL REVENUE CODE OF 1954) MONDAY, FEBRUARY 23, 1981

The United States League of Savings Associations is very much in support of your bill, S. 31, to amend Section 280A of the Internal Revenue Code to prohibit the Treasury Department from unfairly discriminating against property owners who rent dwelling units to a member of their family. We are hopeful your amendment will succeed.

We wish to take this opportunity to suggest a further amendment to 280A which will provide benefits to both new home buyers and elderly home owners without significant revenue impact to the Treasury.

Affordability of housing is becoming a major issue in this country. At present, there are a number of parties, including the U.S. League, trying to innovate new methods of making home financing affordable for those who wish to purchase their own home. One procedure being developed to solve the affordability problem is to allow the home purchaser to use the

* The U.S. League of Savings Associations has a membership of 4,400 savings and loan associations, representing over 99% of the assets of the $625 billion savings and loan business. League membership includes all types of associations - Federal and state-chartered, stock and mutual. The principal officers are: Rollin Barnard, President, Denver, Colorado; Roy Green, Vice President, Jacksonville, Florida; Stuart Davis, Legislative Chairman, Beverly Hills, Calif.; William O'Connell, Executive Vice President, Chicago, Ill.; Arthur Edgeworth, Director-Washington Operations; Glen Troop, Legislative Director, and Phil Gasteyer, Assoc. Dir.- Washington Operations. League headquarters are at 111 East Wacker Drive, Chicago, Ill. The Washington Office is located at 1709 New York Ave., NW, #801, Washington, DC 20006; Telephone (202) 637-8900.

equity in his house to help him meet the carrying cost of acquiring a home. If a borrower could make a larger downpayment on his home, then he would need a smaller mortgage; with a smaller mortgage comes smaller monthly payments. The problem is that most people do not have the additional funds to make a larger downpayment. If another person or investor group joined with him in making a larger downpayment by becoming a non-occupant co-owner, then such a mortgage plan becomes feasible.

However, to attract investors there has to be an appropriate return, and investors are looking for a current return rather than just a pro rata share of future appreciation. Our suggestion is that the non-occupant investor should have the right to deduct his pro rata ownership share of depreciation and other expenses associated with owning investment property. This would give him a current return on his investment. Under the present Code and the IRS regulations, joint ownership business deductions are denied if one of the joint owners uses the property as his principal residence. If a joint owner who is using the property as his principal residence is paying a fair market consideration for the use of the property, we recommend the other non-occupant members of the group be treated as investors with the appropriate tax deductions of income property.

We feel our suggestion can be accomplished by amending subsection (d) of Section 280A of the Code (relating to use as a residence) by striking out "or any other person who has an interest in such unit, or by any member of the family (as defined in Section 267(c)(4)) of the taxpayer or such other person" in

in paragraph (2) - Personal Use of the Unit. This is a slight change to S. 31.

By allowing such business use deductions, principally depreciation, mortgage financing plans which involve a non-occupant investor and an owner occupant then become feasible. Additionally, the so-called "reverse annuity mortgage" concept also becomes more feasible.

As you may recall, a reverse mortgage is a loan that allows the elderly homeowner to convert the built-up equity in his home into monthly income that he may use to meet everyday living expenses. Our coownership concept with non-occupant deductability of depreciation makes this concept workable.

On the surface, it may be argued that such a change in the Code would cause the Treasury to lose revenue. We would disagree with this contention. First, an investor interested in such a plan would probably look to other types of residential investment alternatives if such a plan were not available to him. If the investor bought the house outright and rented it to a taxpayer tenant, the investor taxpayer would enjoy all the rights associated with that investment including the deductability of depreciation. In such a situation the investor would be able to use 100% of the depreciable asset available to him. Under the plan we are proposing, the investor would only be allowed to write off the expenses including depreciation associated with his pro rata percentage of ownership in the property. If the investor and homeowner had a 50-50 split, then the investor would only be able to write off 50% of the expense, including depreciation on the investment portion of the dwelling.

The occupant owner would continue to count the property as a principal dwelling, and would not receive depreciation write-offs; upon sale of his property he would continue to defer any capital gains taxes when he rolls over his investment into a new house. However, the investor would have to pay capital gains taxes on any gains attributable to his percentage of ownership upon sale of the property. If our suggested change is adopted, the Treasury, thus, should break even.

The adoption of our suggested change would greatly enhance home purchase affordability to many American consumers. We feel that this amendment to Section 280A is in the public interest; it is worthwhile and can be accomplished without cost to the Federal Government and the American taxpayer.

A copy of our letter to IRS on the proposed "family rental" regulations is attached for your further information.

J. Gary Shansby

President
Chief Executive Officer

Statement of
J. Gary Shansby
President and Chief Executive Officer
Shaklee Corporation
before the
Senate Finance Committee
Subcommittee on Taxation and Debt Management Generally
on
S. 31
February 23, 1981

Mr. Chairman and Members of the Committee, on behalf of Shaklee Independent Distributors in all 50 states and the District of Columbia, I am pleased to extend my support for S. 31, amending the Internal Revenue Code of 1954 with respect to the deduction of certain expenses in connection with the business use of homes.

Shaklee Corporation is a direct selling company that markets its nutritional, household and personal care products in the home through hundreds of thousands of Independent Distributors, many of whom could be inequitably affected if the regulations proposed by the Internal Revenue Service on August 7, 1980, are implemented, since they work out of their homes on a parttime basis.

The direct selling industry has grown enormously in recent years, due in part to the need for families and senior citizens to supplement their incomes and to the desire of many women to create meaningful and rewarding careers consistent with family raising responsibilities. The convenience and financial rewards of direct selling have also disproportionately attracted minorities, including women, the handicapped, and the elderly, to whom other economic opportunities have not been as readily available. To deny hardworking, small businesspeople the right to deduct legitimate business expenses solely because they operate from part of a residence on a parttime basis, as I.R.S. proposes to do, is unfair and, at a time when we all seek to revitalize American productivity, poor public policy as well.

Shaklee Corporation 444 Market Street San Francisco, California 94111 Phone (415) 954-2700

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These proposed regulations, furthermore, discriminate against the home retailer, as contrasted with the store retailer. All of one's business expenses, including all depreciation, are deductible if one markets products from a store, even if the store is not the primary source of income. Under these proposed regulations, one is not accorded the same rights if one's place of business is located in one's home.

Since these proposed rules negatively impact those whose home business comprises less than fifty percent of total income, it is also the small businessperson, and the ambitious fellow to boot, who gets hurt. Not only would these rules discourage people from starting new businesses; they would also discourage the ambitious person from incurring the additional expenses of trying to build up his or her business. In fact, such a disincentive reduces taxable income, probably in excess of that gained by disallowing these business deductions.

I compliment the efforts of this Committee in seeing that this important issue is properly and promptly addressed and brought to a successful resolution through passage of S. 31. I shall appreciate having these comments included in the record of your hearing on this bill.

SUMMARY OF TESTIMONY OF ROY M. COUGHLIN BEFORE THE SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT, OF THE SENATE COMMITTEE ON FINANCE, FEBRUARY 23, 1981

I am Roy Coughlin, employed by Southern New England Telephone in Connecticut to oversee its environmental program, of which an element is ridesharing. I am also vice chairman of the National Task Force on Ridesharing, appointed by President Carter, and I represent that group in supporting for passage S. 239, which embodies recommendations for tax credits made by the task force. I am also chairman of the Governor's Ridesharing Task Force in Connecticut, and a founder and director of the National Association of Van Pool Operators.

I am including with my testimony a copy of the report of the National Task Force. Reference to the report, Page 18, will reveal the recommendations of the task force with respect to tax credits to promote the expansion of vanpooling and ridesharing. Sections of S. 239 respond very well to these recommendations, and therefore deserves support of ridesharing enthusiasts.

Ridesharing is an acknowledged energy conservation technique; it also helps reduce air pollution, decreases traffic congestion, and saves the participant considerable personal funds for commuting. However, it has an equally important role to play as a continuing management technique for the solution of many problems faced by employers, including the need to return parking spaces to higher use, avoiding the building of parking facilities for expanding work forces, attracting employees from greater distances, retaining employees when relocating, avoiding relocating, and others.

For these and other proven benefits commented upon in the report and elsewhere, the offering of tax credit incentives to ridesharing through legislation such as S. 239 is seen as a great spur to the expansion of ridesharing programs.

TESTIMONY OF ROY M. COUGHLIN BEFORE THE SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT OF THE SENATE COMMITTEE ON FINANCE, FEBRUARY 23, 1981

Thank you for the invitation to appear to testify for the National Task Force on Ridesharing in support of certain legislative proposals embodied within S. 239, The Commuter Transportation Energy Efficiency Act.

My name is Roy M. Coughlin. I am employed by Southern New England Telephone in New Haven, Connecticut, as Staff Specialist-Environmental Affairs. In that position, I oversee the corporate environmental program, a major element of which is its commuting program. The program has been awarded the President's Energy Efficiency Award, and has otherwise been viewed as a model program with respect to its scope. I also serve as chairman of the Governor's Ridesharing Task Force in Connecticut. I am proud that I was named to that position by the former Governor, Ella T. Grasso, to whom I would like to pay tribute both as a governor, and as an ardent supporter of ridesharing. It is her support, coupled with the enthusiastic response of the private sector and the public sector working together, that has put Connecticut in the forefront of ridesharing. And, in fact, I have been told that the National Task Force on Ridesharing was modeled after the Connecticut group. Mrs. Grasso served on the national body, as well. I am pleased to have served as vice chairman of the National Task Force, which was named by President Carter in October of 1979. Another position which I occupy with pride is that of a founder and a current director of the National Association of Van Pool Operators, commonly known as NAVPO. Its growth has paralleled the rapid growth of vanpooling, and it has grown from 31 founders in August of 1976 to its current 435 members.

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Half of these are operators of successful programs. I feel it is safe to say that no group, including the National Task Force, has had as much to do with the continued growth and success of vanpooling and related ridesharing efforts, as NAVPO.

I have submitted for your consideration a copy of the report to the president of the National Task Force on Ridesharing, issued in October of 1980, one year after we began work. The report tells you better than I might what ridesharing is about and the benefits it offers.

My purpose in this testimony is to provide an often overlooked perspective of ridesharing, and to draw your attention to the recommendations of the task force with respect to tax incentives which the members feel will be helpful in reinforcing employer decisions to implement ridesharing programs.

I will tell you that the Task Force looked at ridesharing as encompassing all forms of pooling, from the two-person carpool to the large passenger bus. We wish that we had had the time and the resources to give greater consideration to public mass transit. Admittedly, most of our efforts focused on vanpooling; this was not intended to imply stronger endorsement for vanpooling than for other modes, but rather to respond to the larger array of institutional barriers which confront vanpooling. Some solutions, when undertaken, would apply equally well to carpooling, and attitudinal shifts which cause employers to assume responsibility for ridesharing programs would undoubtedly lead them to give strong consideration to promotion of available transit and carpooling for their employees.

3.

The benefits of ridesharing are many and varied, the importance of each depending in great part upon the perspective of the viewer. Claims for the reduction of air pollution and conservation of automotive fuel have been well supported; the savings of private individuals when they surrender the single-occupant-vehicle for the shared-ride can be startling, since most drivers, it occurs to us who advocate ridesharing, have unrealistically underestimated the cost of their commuting trip. As the cost of gasoline continues to rise, this traveling cost is driven home to more and more commuters, but most still do not realize that this cost is only half of the total, on the average.

Employers who have begun ridesharing programs have enjoyed many unexpected benefits, all well documented. However, it is my belief that too few managers and too few business persons understand that ridesharing is not primarily an energy conservation technique, nor is it primarily an air pollution abatement methodology, nor is it primarily an employee benefit. Instead, it is primarily a management technique for the solution of many of the problems which beset employers daily.

It is a highly successful managerial approach to attracting a labor market from increasingly distant areas, enough distant so that prospective employees cannot afford to travel to the job alone; it has been used to avoid the construction of very expensive parking facilities for a growing business. It has been used to reduce the amount of ground space devoted to the nonproductive activity of parking cars, so that new building space could be added without purchasing new land. It can be used to expand on site so

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that the employee need not relocate merely to gain added land. And, when an employeer must relocate, ridesharing assures him the capability of retaining his already trained personnel. When personnel turnover rates are unsatisfactorily high, ridesharing has been used to cut them, by as much as half. Ridesharing has been proven to improve attendance and to cut tardiness.

It is my hope that you will see ridesharing in its broadest possible application--that of an economic tool to be included in the arsenal of management techniques used to anticipate or to solve problems.

Without elaboration, I will assure you that the success of ridesharing has been due to the response of the private sector, and its continued success depends heavily upon the cooperation and the acceptance of employers. At the same time, there are millions of solo commuters who, when given a financial incentive, will undertake the responsibility of purchasing a ridesharing vehicle and operating a pool for his or her fellow employees and neighbors. There are, perhaps, eight to ten thousand such vanpools now in operation. While it is difficult to inventory them, we who follow ridesharing's growth suggest that privately-owned vanpools are approximately the same in number as employeer-sponsored vanpools.

May I now refer you to the report of the National Task Force, Page 18, relating to Public incentives. Benefits to the public have been discussed on Page 9, and it is to the advantage of the public that ridesharing continues to grow. It is the contention of the members of the task force

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that it is not necessary to impose large amounts of federal dollars onto the ridesharing spectrum in order to help it flourish. Rather, the judicious application of tax credits can provide great support. We recommend the following actions at federal level:

The President and Congress should:

1. Provide tax credits to private employers equal to the amount spent by the employer or a maximum per employee (whichever is less) to offset the cost of administering a ridesharing program.

2. Exempt ridesharing incentives provided by employers to employees from taxable employee income. Examples of these incentives include vanpool driver incentives, carpool, vanpool, and buspool financial and parking incentives, and transit ticket discounts.

3. Increase the tax credit to 20 percent for corporations that purchase or lease vehicles for commuter vanpooling and buspooling. Where the vans or buses are leased by the firm or individuals, the tax credit must be passed on to the leasee. There should be no further condition attending the qualification for credit.

4. Establish a tax credit for individuals who puchase or lease vehicles for commuter vanpooling. When the vans are leased, the tax credit must be passed on to the leasee.

6.

It can be readily seen that these recommendations are contained within the proposed S. 239, and in fact, that the bill adds measures beyond the recommendations. The Task Force endorses the bill, therefore, in its entirity, since it is consistent with and supportive of the objectives of those who wish ridesharing to prosper.

Recommendation 1 of the report is carried through to Title IV of the bill. Recommendation 2 is responded to by Title II; Recommendation 3 is supported by Title III, and Recommendation 4 is found in Title I.

I thank you for your attention.

WRITTEN STATEMENT

SUPPORTING S239

COMMUTER TRANSPORTATION ENERGY EFFICIENCY ACT OF 1981

SUBMITTED BY

COMMISSIONER RICHARD P. BRAUN

MINNESOTA DEPARTMENT OF TRANSPORTATION

March 5, 1981

Submitted to

The Honorable Bob Packwood
Tax Subcommittee
Committee on Finance
United States Senate
Washington, D.C. 20510

Written Statement on the Commuter Transportation Energy Efficiency Act of 1981, (S239) Sponsored by Senator Dave Durenberger

Overview

The need for commuters to share rides rather than drive to work alone is becoming more acute each day. The cost of imported petroleum needed to keep America's fleet of personal automobiles moving is having a devastating effect on the nations' economy. Soaring inflation and gasoline costs are severely affecting family budgets as well as corporate and public budgets. Ridesharing provides a low cost, convenient way for commuters to reduce their transportation costs and an immediate savings of fuel.

The State of Minnesota has been promoting increased ridesharing since the 1960's. The vanpool concept was developed by the Minnesota Highway Department in 1971 and implemented by the 3M Company in 1973. Computerized ridematching services were developed by the Department in 1974, one of the first such efforts. More recently, the Metropolitan Transit Commission pioneered personalized ridematch services in 1977. In 1980, the Minnesota Department of Transportation implemented a comprehensive statewide program to encourage and facilitate increased ridesharing. Known as MINNESOTA RIDESHARE, this program has resulted in formation of 4732 carpools and 36 vanpools in the first three months. The program budget for FY 1981 is $1.5 million, funded by local and federal highway programs.

The primary objective of MINNESOTA RIDESHARE is to facilitate formation of a network of regional and local rideshare service delivery organizations throughout the state. Local agencies are being encouraged to join with employers and other private sector organizations in developing local and multi-employer programs. The Mn/DOT is convinced that increased ridesharing will only result from successful teamwork at the employer level. It will take the combined talents and resources of both the public and private sectors.

The Department is also convinced that much of the rideshare service delivery responsibility must be shifted to the private sector. Employers have a vested interest in ensuring that employees share rides. They are also in a strategic position to encourage ridesharing by implementing incentive programs. Public agencies, on the other hand, are being forced to reduce the scope of services provided due to funding constraints. The private sector must assume the responsibility for ridesharing programs. The tax credits proposed by Senator Durenberger are a significant incentive that will facilitate this shift to the private sector.

Minnesota's Rideshare Experience

Development of current public policy that encourages increased ridesharing began in 1971 with the development of the commuter van concept by Minnesota Highway Department Staff. The vanpool concept was designed in response to a need to find ways to handle increased traffic creating congestion on recently completed freeway segments.

In addition, it was recognized that the recently acquired public transportation system (the MTC) could not effectively and economically satisfy all travel demands in the metropolitan area. However, the Highway Department was unable to secure State, Federal or private funding necessary to acquire vehicles with which to demonstrate the concept.

In 1973, the Highway Department staff provided the concept description and proposal to transportation staff at the 3M Company. The 3M Company was seeking solutions to increasing traffic congestion and parking space requirements at its St. Paul facility. Subsequently, 3M Company initiated the first employee vanpool program in April 1973, shortly before the time that the Arabian oil embargo began creating fuel supply problems.

In 1974, the Governor's Office and Minnesota Highway Department established a Rideshare Promotion Program based on a mass mailing of carpool match request forms, distributed by the telephone company in the metropolitan area. To support this mailing and in anticipation of a major response, the Department developed one of the first computerized ride match programs established in the United States. The anticipated response did not occur and shortly thereafter, reduction of the fuel supply problem resulted in less interest in promoting ridesharing. Despite this reduced emphasis, the Minnesota Highway Department continued efforts through 1975 and 1976 to assist employers in establishing rideshare programs for employees. In all, about 40 employers were assisted.

In 1977, legislation was passed directing the Metropolitan Transit Commission to provide rideshare program services for the Twin Cities Metropolitan area. Consequently, the Metropolitan Transit Commission applied for and received federal Urban Mass Transit Administration demonstration funds in order to establish a regional rideshare program. Federal Aid Urban highway dollars and state paratransit fund dollars were used to fully fund this program. Services provided included direct marketing, computerized ridematching and telephone brokerage (follow-up calls) at major employment sites in the metropolitan area. The ultimate objective was to expand the program region-wide as time and staff permitted. Throughout 1977, 1978, and 1979, the MTC utilized a team of organizations to accomplish this program. Public Service Options, Incorporated was hired to conduct and direct marketing to employers. MTC staff provided the actual survey and ride match functions. Vanpool Services, Incorporated was hired to provide leased vans to identified vanpools.

In 1978, the Minnesota Department of Transportation funded a rideshare demonstration program in Duluth. That program was accomplished by a contract with Vanpool Services, Incorporated and included media marketing, direct marketing to employers, ride matching services for carpools and vanpools, provision of transit route information and provided vans for vanpools. In 1979, Mn/DOT began plans to expand the Duluth concept on a statewide basis. The plans were incorporated in Governor Quie's message to the 1980 Legislature.

Subsequently, legislation was passed and $200,000 in general fund revenues were appropriated for the implementation of the statewide rideshare program. Governor Quie directed that additional resources be committed to rideshare program expansion and that the private sector role in providing the services be expanded. The legislation and the Governor's direction formed the basis of the development of an integrated statewide rideshare program "MINNESOTA RIDESHARE".

MINNESOTA RIDESHARE

MINNESOTA RIDESHARE has been established as a unified program to encourage and facilitate increased ridesharing throughout the State. The program operates with a single marketing theme and with coordinated management and funding. The program consists of eight regional programs which subsequently will be further refined into sub-regional programs focusing on major population centers and employment sites. The seven out-state programs are focused on Mn/DOT District Office staff locations. The metropolitan area program consists of a joint effort between Mn/DOT, the Metropolitan Transit Commission under contract to Mn/DOT and the services of Vanpool Services, Incorporated staff are responsible under contract to provide all promotional and support services for employment site rideshare marketing. Services provided include direct marketing to management, assistance in circulating and processing rideshare interest applications, computerized ride match, telephone brokerage of interested participants and coordination of vanpool development.

A separate statewide contract with Vanpool Services, Incorporated has been executed for the provision of vanpool vehicles and for fleet administration services.

Throughout the development of the MINNESOTA RIDESHARE Program, the role of Mn/DOT was seen to be that of a catalyst and technical resource. Mn/DOT cannot and will not be able to provide on-site ridesharing services throughout the State. Consequently, it is the goal of Mn/DOT to recruit and encourage participation on the part of employers and local officials for the establishment of sub-regional and community based ridesharing and rideshare promotion programs. It is also recognized that in order to succeed, the effort must involve a partnership between public and private agencies.

The program implementation began on November 12, 1980 with a press conference announcing a two-phase activation. Phase One began with corporate advertising and out-reach efforts to employers throughout the State. Phase Two began in January, 1981 with the establishment of a statewide, media based awareness and promotional advertising campaign. Eleven Mn/DOT staff are assigned to the program. In addition, 16 persons are employed by contract in the Metropolitan area. To date, 4,732 carpools have been formed for 11,400 persons. Another 36 vanpools have been formed to serve 400 people, bringing the program fleet up to a total of 135 vans.

National Rideshare Demonstration Grant

In addition to direct rideshare program activities, Mn/DOT has received a special national rideshare demonstration program grant to evaluate specific questions regarding rideshare programmin. The $95,000 federal grant will be used to:

1) determine the effectiveness of telephone brokerage services,

2) determine the potential for vanpools and carpools to provide transportation for handicapped commuters as an alternative to special transportation services,

3) determine the maximum probable potential for the rideshare program to increase ridesharing. This activity will be accomplished through selection and appointment of a consultant.

State Employee Vanpool Program

In addition to the statewide program activity, the Minnesota Legislature has established a state employee vanpool program. The initial fleet of six vans has been increased, first, to twenty vehicles and in 1980, to a total of forty vans. The Department of Administration has been given responsibility for implementation of the program.

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State Park/Ride Lot Program

The 1980 Legislature adopted legislation and appropriated $200,000 in general fund revenues for the establishment of a statewide park and ride lot program. The goal of this program is to facilitate increased ridesharing. One objective of this program as discussed with the Legislature by Mn/DOT, was to quickly implement as many sites as practical in the first construction season. The purpose of this early implementation was to gain experience and establish a basis for consideration of further program funding. This strategy was adopted in response to the fact that park and ride site development strategies are currently developing and evolving. Not enough is known about rideshare needs to be able to predict where sites would be successful.

Governors Task Force on Ridesharing

Governor Quie took further action to increase ridesharing in September 1980 with creation of a 23 member Task Force on Ridesharing. The mission of the Task Force was to make recommendations for the elimination of barriers to ridesharing and for incentives needed to encourage ridesharing. A draft of the Executive Summary of the Task Force report is attached. The Task Force has reviewed the proposed tax credits and endorses their adoption. The Task Force has also recommended that State revenue codes be amended to provide a similar credit.

The most significant recommendation of the Task Force is that the private sector should assume a greater role in rideshare program planning and service delivery. This recommendation is currently being addressed with several actions being taken to develop a public/private sector partnership as described in the Executive Summary.

Minnesota Perspective

Minnesotas' comments on the provisions of S239 are a reflection of our problems in dealing with low density. Our people are generally spread out, thereby complicating efforts to increase ridesharing. We have one major metropolitan area of about 2 million people but only 5 metropolitan areas over 50,000 people. Two of those straddle our borders with neighboring states. We have 106 cities with population between five and 50,000 and 747 cities with less than 5,000 people. Our employer size distribution is comparable, tending toward the 50-250 employee catagory.

Because of our population dispersion, our concerns are primarily for facilitating carpooling as well as vanpooling and transit use. We are also interested in the creation of multi-employer and small urban area programs. We believe that the provisions of S239 should encourage those activities where employers can join with local agencies in funding and staffing ridesharing programs throughout the country. The private sector must assume a larger role in that partnership.

Specific Comments

Title I. We endorse and encourage the passage of Title I. We are concerned however that industry trends are toward commuter vans of smaller capacity than 8 passengers. Also, many of our pool sizes would be better served by a 6-8 passenger station wagon. Consideration should be given to the inclusion of these options.

Title II. We endorse and encourage the passage of Title II. Consideration should be given to modifying the definition of "ride-sharing program" to mean any program to assist employees in locating other persons to share transportation between the employees residence.... This change would avoid any possible exclusion of multi-employer or community program participation constraints.

Title III. We endorse and encourage the passage of Title III. We feel this provision will significantly and positively influence private sector employers who may consider participating in rideshare programs. The provisions should allow for participation in multi-employer programs and transportation of persons who are not employees of the taxpayer.

Title IV. We endorse and encourage passage of Title IV. In addition we recommend modifications of the definitions and other provisions to specifically include multi-employer and community based program investments. The credits should be based on a pro-rata share of program cost and incorporate the sliding scale credit provision.

Title V. We endorse and encourage passage of Title V.

Closure

Minnesota will continue its efforts to save fuel by encouraging greater use of carpools, vanpools and transit. The provisions of the Commuter Transportation Energy Efficiency Act of 1981 will greatly assist us in working with employers in developing programs throughout our State. We strongly urge the Congress to adopt S239 at its earliest opportunity.

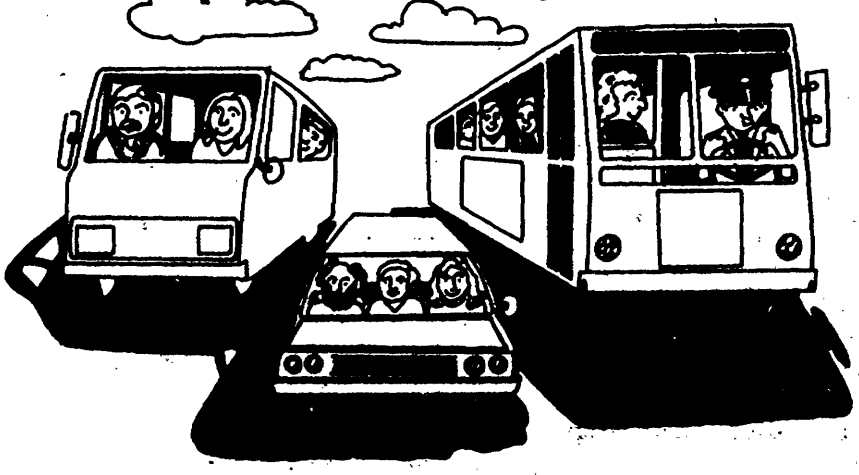
FINAL REPORT

OF THE

GOVERNOR'S TASK FORCE

ON

RIDESHARING



EXECUTIVE SUMMARY

TASK FORCE MEMBERS

Richard P. Braun, Commissioner, Minnesota Department of Transportation
Allan R. Boyce, Burlington Northern (Vice Chairman)
John Bernhagen, Senator, State of Minnesota
Duane J. Crandall, Minnesota AAA
Jeanette Janacek, City of New Brighton
Burton W. Johnson, City of Hawley
Kent Kaplan, Owatonna Tool Company
Kenneth Nelson, Representative, State of Minnesota
Robert Owens for Lewis Lehr, 3-M Company
Booker Rice, Jr., Prudential Insurance Company
Harold J. Schuebel, Cenex
Hugh Solberg, Munsingwear, Incorporated
Carol Trusz, Northwestern National Bank
Brad Walker, Honeywell, Incorporated
Linda Vumbaco, Arrowhead Economic Opportunity Agency

Ex. Officio Members

Steven Balfanz for Mark Mason, Minnesota Energy Agency
Richard Borne, Control Data Corporation
Marianne Curry for Charles Weaver, Metropolitan Council
William Curtis, Northern States Power Co.
Larry Haeg, Jr., WCCO Radio
Judith Hollander for John Yngve, Metropolitan Transit Commission
William Lake, Federal Highway Administration
Arthur Schreiber, KSTP AM

EXECUTIVE SUMMARY

BACKGROUND

Minnesota has been a leader in nationwide efforts to save fuel and money by increased ridesharing since the 1960's. Numerous employers have sponsored programs to help employees pool rides. Fifteen employers now sponsor vanpools, with 425 vans operating. The vanpool concept was developed in Minnesota by the Minnesota Highway Department and first implemented by the 3M Company. This record of innovation continued with pioneering efforts by the Metropolitan Transit Commission in computerized ridematching and the use of personalized assistance to rideshare applicants.

While much was being accomplished, more was needed. Governor Albert H. Quie directed that the Minnesota Department of Transportation (Mn/DOT) develop and implement a statewide program to encourage and facilitate increased ridesharing. This program, known nationwide as MINNESOTA RIDESHARE, was implemented on November 12, 1980. Its primary objective is to increase ridesharing by providing concept promotion and ridematching services while at the same time working with private sector and public sector organizations in establishing a network of regional, subregional and/or local programs.

As a further measure, Governor Quie appointed a 15 member Task Force on Ridesharing comprised of elected officials and private sector executives. Their responsibilities were to: encourage business and government leaders to initiate and expand ridesharing; assist in overcoming regulatory, financial, insurance and other institutional barriers to ridesharing; recommend actions that may be taken by government to alleviate obstacles to ridesharing; and provide a continuing dialogue between government and the private sector to facilitate development of ridesharing.

Commissioner of Transportation, Richard P. Braun, serves as Rideshare Coordinator for the State of Minnesota and chairs the Task Force. Eight ex-officio appointments were made to provide additional resources for the Task Force.

The Task Force, through this report, readily notes the importance of ridesharing and the need for additional efforts. It calls for increased incentives, removal of barriers and a carefully developed partnership between the private and public sectors that looks toward a decentralized delivery of ridesharing services by organizations in local areas and communities.

THE IMPORTANCE OF RIDESHARING

Ridesharing is a low cost, practical answer to many energy and commuter transportation problems.

- The cost of commuting to work is increasing rapidly, particularly for those who drive alone--$2 or $3 per gallon gasoline prices are no longer unthinkable.

- While fuel supplies are adequate today, the future supply situation is uncertain--contingency plans must be developed to help get people to work in the event of a supply curtailment.

- Work force availability is increased--distance factors can be offset by pooling longer trips.

- Additions to highway and street capacity will be limited due to funding constraints--more efficient use of existing facilities is possible through ridesharing.

- Public transit is not practical in all situations--costs, population density and trip patterns require alternatives such as ridesharing via van or carpools.

RIDESHARING IS ALREADY HAPPENING

Ridesharing is not a new idea--the difference is that public and corporate policies now recognize the many advantages.

- In some urban corridors, 50% to 60% of the commuters share rides in carpools and vans.

- Vanpooling, the newest form of ridesharing, is growing rapidly with an estimated 425 vans operating in the State.

- Public transit is the second largest form of ridesharing. It accounts for 9% of the work trips in the Twin Cities area and up to 50%-60% in the center of the downtown.

A PARTNERSHIP BETWEEN THE PRIVATE AND PUBLIC SECTORS

The decision to share a ride is a personal choice made by the participants. The choice cannot be mandated, but it can be influenced through education and the use of incentives. Employers are in a key position to deliver incentives and encourage participation. Public agencies can adopt policies and programs that support private sector efforts. Both private and public sector leaders must participate in the planning and implementation activities for the maximum effectiveness.

The Task Force has concluded that the partnership should be formalized through the creation of --

- A State Rideshare Advisory Board to assist the Commissioner of Transportation in development of a statewide strategic plan for ridesharing and to advise the Commissioner on its implementation.

- Regional Rideshare Boards to coordinate strategic planning and implementation of rideshare programs in the 13 development regions of the State and to encourage local government and local business participation.

- Local Rideshare Programs developed and implemented by a local private/public sector team.

The organizational structure needed to accomplish the partnership arrangement already exists. No new agencies or staff are needed. Specific roles recommended for the participants include:

- Large employers providing ridesharing services for their employees on their own without public assistance.

- A cooperative effort by both the private and public sectors in local communities to organize ridesharing services for delivery to employees of smaller employers. Ridesharing programs and services should be decentralized.

- State, regional and local public agencies should develop facilities and adopt policies supportive of ridesharing, develop strategic plans with the private sector and support the development of ridesharing services in local areas.

- Private sector employers and organizations should provide ridesharing programs for their employees, participate with public sector strategic planning efforts and take the lead to form local ridesharing organizations.

TASK FORCE RECOMMENDATIONS

The Task Force has identified barriers that must be removed and incentives that can be implemented. Specific recommendations and the responsible implementers are summarized as follows:

THE GOVERNOR

- Advance legislation for elimination of barriers, creation of incentives and the funding of local ridesharing programs in 1981.
- Establish an awards program to recognize outstanding ridesharing programs.

THE LEGISLATURE

- Modify no-fault insurance legislation to alleviate liability concerns
- Provide incentives to employers/corporations by --
  - establishing investment credits for van acquisition
  - providing tax credits for rideshare programs investments
- Eliminate taxable income barriers to ridesharing
- Adopt provisions of the Model Law on Ridesharing
- Establish a unique registration class for rideshare vehicles
- Provide funds for rideshare programs
- Permit local taxing authorities to "Special Levy" for transportation program costs
- Commission a study of land use code impacts on ridesharing

THE COMMISSIONER OF TRANSPORTATION

- Appoint a State Rideshare Advisory Board
- Develop a statewide strategic plan for MINNESOTA RIDESHARE
- Continue development of park/ride facilities and preferential access lanes for high occupancy vehicles
- Provide funding to assist regional, subregional and/or local programs

EMPLOYERS

- Establish rideshare programs for employees:
  - make ridesharing a company objective
  - appoint rideshare managers
  - budget and provide funds
  - provide incentives to employees--parking preference, flexible hours, use of employer vehicles, subsidies, payroll deduction and shuttle services
- Support national and state legislation that eliminates barriers and provides incentives to ridesharing
- Participate on rideshare advisory boards
- Provide assistance to non-employees
- Provide loaned executives or other resources to multi-employer, local and subregional programs and other employers
- Promote ridesharing among other employers
- Incorporate rideshare themes in corporate advertising

REGIONAL DEVELOPMENT COMMISSIONS & METROPOLITAN PLANNING ORGANIZATIONS

- Provide strategic planning leadership for ridesharing programs by reviewing transportation plans, establishing ridesharing as a priority, identifying possible providers in local areas and determining appropriate models for ridesharing delivery
- Establish private/public Ridesharing Management Boards to guide, review and make recommendations on the regional ridesharing plans.

CITIES, COUNTIES

- Participate in regional and local rideshare projects
- Review land use codes to remove barriers to ridesharing
- Develop park and ride facilities and implement preferential parking policies
- Implement employee rideshare programs
- Provide funding support for local ridesharing programs

TRANSIT AUTHORITIES

- Incorporate ridesharing in operations and advertising
- Participate in local rideshare projects

ORGANIZATIONS -- PUBLIC AND PRIVATE

- Participate on the state rideshare advisory boards
- Provide leadership for the industry, trade, profession or interest group members
- Support public and private sector rideshare efforts

INSURANCE INDUSTRY

- Clarify the impact of various forms of carpooling on insurance coverage and rates and publicize the savings available from carpooling
- Promote the insurance savings features from ridesharing by aggressive marketing of ridesharing premium discounts

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March 10, 1981

Senator Bob Packwood
Senate Finance Committee
2227 Dirksen Senate Office Bldg.
United States Senate
Washington, D. C. 20510

Dear Senator Packwood:

The Specialty Advertising Association International (SAAI) by its attorneys, is pleased to express its unqualified support of S. 31, the bill which deals in part with the deduction of expenses in connection with the business use of homes.

SAAI is a trade association whose 2400 members manufacture or distribute specialty advertising products. Those products consist of useful items, such as ballpoint pens, which are imprinted with advertising copy and distributed free of charge for advertising or promotional purposes. Many distributors of specialty advertising products use their homes as their principal place of business and many more retain sales representatives who also use their homes for such purposes. Moreover, a significant number of persons in the industry use their homes to conduct a second business.

SAAI supports those provisions of S. 31 dealing with the use of a home as a business and has no comments on the other provisions of this bill. The Association believes that sections of the Internal Revenue Code dealing with the business use of the home and proposed regulations implementing those sections are unfair and discriminatory. Under those provisions a person may not deduct the expenses for using his home as a business unless that business is his "principal place of business" [IRC Section 280A(c)(1)]. This clearly discriminates against the person who conducts two businesses (one in his home) in favor of the person who has only one business.

The validity of the deduction should not depend on whether the taxpayer has one, two or more businesses. Deductions for a taxpayer who conducts a second business are no less legitimate than those deductions for the taxpayer who has only one business. To penalize the person who has two businesses is simply unfair. Moreover, such a penalty is poor tax policy because it discourages industry on the part of taxpayers, who might otherwise seek to a supplementary source of income.

Accordingly, we urge that this measure be enacted.

Sincerely,

Malcolm D. MacArthur
Counsel
Specialty Advertising
Association International

TESTIMONY OF THE
AMERICAN FEDERATION OF TEACHERS, AFL-CIO
BEFORE THE UNITED STATES SENATE
S-31

Provisions included in the 1976 Tax Reform Act, and subsequent interpretation of those provisions by the Internal Revenue Service, have provided grave difficulties for American classroom teachers.

Specifically, the IRS will not allow a homeowner who operates a part-time business from his or her home to deduct business-related expenses for that office. This holds true even if the homeowner satisfies all other requirements for the home office deduction. The fact that the business is part-time disallows the deduction.

The U.S. Department of Education has reported that in 1978-79 the average annual classroom teacher salary in the United States was $14,970. The Bureau of Labor Statistics of the U.S. Department of Labor has reported that in autumn 1979 the average cost of an intermediate budget for an urban family of four was $20,517, or $5,547 more than the average teacher earned. Even if one considered the lower family budget figure of $12,585, there were 10 states with an average classroom teacher salary below this figure.

It should come as no surprise that many teachers have part-time jobs. Bureau of Labor Statistics data show that 325,000 elementary and secondary teachers in the United States hold multiple jobs. In fact, 16 percent of all male teachers, and almost 7 percent of all female teachers hold second jobs. BLS data also show that 28 percent of those teachers who hold second jobs are self-employed workers, that is, they have their own businesses. These part-time businesses, operated by teachers to supplement their small incomes, require offices and it is reasonable to assume that these offices will be in the home. Another 25 percent of those holding second jobs are employed in service industries where an office in the home might be required.

Such a home office requires an expense to the teacher having a part-time business, and current regulations do not allow the deduction of such expenses from the teacher's income tax. This, in our opinion, comprises inequitable treatment of a taxpayer who is struggling to earn a decent income to supplement the low pay earned while in public service.

The position of the American Federation of Teachers is that the Internal Revenue Code should be changed to allow deduction for the home office for a part-time business, as long as all other provisions for the deduction are met.

Therefore, we urge support for S-31 introduced in the U.S. Senate by Sen. Bill Armstrong (R-Colo.). This bill, if enacted into legislation, would correct this obvious wrong at minimal cost to the U.S. Treasury and provide equity for those operating part-time businesses from their homes. To fail to enact this legislation would mean further sacrifice for those who are already sacrificing by holding lower-paid public service jobs.

/es

February 23, 1981

LAW OFFICES

CAPLIN & DRYSDALE

1101 SEVENTEENTH STREET, N. W.

WASHINGTON, D. C. 20036

862-5050

February 27, 1981

Subcommittee on Taxation and
Debt Management
Committee on Finance
United States Senate
2227 Dirksen Senate Office Building
Washington, D.C. 20510

Attention: Mr. Richard Belas

Dear Mr. Belas:

I am writing to call your attention to a problem involving the application of section 280A of the Internal Revenue Code to certain business traveling expenses. I believe it could be solved by simple legislation in the form of an amendment to S. 31, on which the Senate Subcommittee on Taxation and Debt Management held a hearing on February 23, 1981.

The Problem

The problem concerns the allowability of various deductions with respect to the use of a dwelling unit as lodging by a taxpayer who is traveling away from home on business. A taxpayer who frequently travels to a particular city on business often prefers to lease an apartment or rent one on a month-to-month basis, or to buy a condominium or cooperative apartment, rather than to stay in a hotel. In some cases, the cost of maintaining an apartment is less than it would cost to rent a hotel room on each business trip, and in most cases, the taxpayer finds it more convenient to have an apartment available on a regular basis. Sometimes an apartment is rented or purchased for use by one or more business associates. For example, a law firm might maintain an apartment for use by its members who are required to be in a particular city for business reasons. On occasion, the apartment, used predominantly for business traveling, might also be used in the course of personal traveling.

To the extent that an apartment is used as lodging by persons in a legitimate business travel status, the expenses of maintaining it (like hotel costs) would clearly be deductible in the absence of section 280A -- unless the expenses were "lavish or extravagant under the circumstances" within the meaning of section 162(a)(2). In fact, the allowability of such deductions is recognized in the explanation of section 280A contained in both the House and Senate committee reports on the Tax Reform Act of 1976:*

> With respect to an apartment or residence used by a taxpayer while in a travel status, the expenses attributable to the maintenance of the apartment or residence are treated as lodging expenses subject to certain other rules relating to deductibility (sec. 162). As such, the expenses are deductible only if they are reasonable and necessary in the conduct of the taxpayer's business and directly attributable to it. "Lavish or extravagant" expenses are not allowable deductions. The expenses attributable to the apartment or house are deductible as lodging expenses if properly allocable to the taxpayer's trade or business even though the transportation expenses are not deductible because the trip was undertaken primarily for personal purposes.

Despite this clear explanation, other language in the committee reports could be read as indicating Congress's intent to displace all prior law by imposing a new set of restrictions on the deductibility of any expenses with respect to a dwelling unit -- including those that would otherwise qualify as traveling expenses. Also, the language of section 280A itself, which broadly defines the term "dwelling unit" and applies to any dwelling unit used during a taxable year for personal purposes for more than the greater of 14 days or 10 percent of the number of days the unit is rented, leaves room for an interpretation that requires disallowance of the deduction of traveling expenses.

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* H.R. Rep. No. 658, 94th Cong., 1st Sess. 158 (1975); S. Rep. No. 938, 94th Cong., 2d Sess. 145 (1976).

If section 280A were applicable to traveling expenses: (a) expenses that might not be deductible include rent, or in the case of a condominium or cooperative apartment owned by the taxpayer, depreciation, fees or assessments paid to an owners' association, and other maintenance costs; and (b) even if an exception were available under section 280A(c), these traveling expenses would still be subject to the limitations contained in section 280A(c)(5).

Moreover, it seems unlikely that Congress intended to require the total disallowance of traveling expense deductions merely because an apartment is sometimes used for personal purposes. The rules for deducting traveling expenses, as described in the committee reports, were clear and not criticized at the time section 280A was enacted; and the focus of section 280A was on vacation homes and home offices, both of which were subject to substantial abuse. This abuse potential is not true for the traveling expense deductions, which are controlled by well-established rules under section 162(a)(2).

Suggested Solution

The ambiguity with respect to the applicability of section 280A to traveling expense deductions could be removed by the following simple amendment to section 280A comprised of a new subsection (d) of Section 1 of S. 31:

> (d) EXCEPTION FOR TRAVELING EXPENSES. -- Subsection (b) of section 280A of such Code is amended --
>
> (1) by inserting "TRAVELING EXPENSES," before "ETC." in the caption, and
>
> (2) by striking out "." and inserting in lieu thereof ", or any deduction allowable under section 162(a)(2)."

To remove the ambiguity retroactively, it would be necessary to insert ", (b), and (d)" in place of "and (b)" in Section 2 of S. 31.

This amendment is very narrow, since it allows only deductions for traveling expenses which meet all the requirements of section 162(a)(2). For cases where a dwelling unit is used at times as lodging in the course of

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WASHINGTON, D. C.

business traveling and at other times for other business activities -- for example, as a home office or for rental as a vacation home -- the deductibility of expenses relating to these other uses would continue to be governed by the limitations of section 280A.

I hope that the Subcommittee will rectify the traveling expense problem by an amendment similar to the one suggested above.

Sincerely,

Mortimer M. Caplin

National Association of Van Pool Operators

A TESTIMONY

by

THE NATIONAL ASSOCIATION OF VAN POOL OPERATORS (NAVPO)

regarding Senate Bill S.239

Ed Marks
Executive Director
March 9, 1981

12208 W. Kingsgate Drive • Knoxville, Tennessee 37922 • (615) 966-4507

75-629 O—81——23

The National Association of Van Pool Operators (NAVPO) is a non profit organization founded in 1976 by 31 vanpool pioneers who believed that this method of commuter transportation offered a viable solution to the existing and increasing problems resulting from the generally accepted single occupant mode of commuter transportation.

The goals of the association are to promote ridesharing in general and vanpooling in particular. In addition to publicizing the benefits of "a preferred commuting alternative", the association has worked diligently to encourage the elimination of legal and institutional barriers to ridesharing, and has been instrumental in encouraging the deregulation of vanpooling nationwide and the establishment of policies regarding readily available and reasonably priced insurance.

Acting as an information exchange and referral service to the early "groundbreakers" who had established successful vanpool programs, the organization was either directly or indirectly responsible for the formation and growth of most of the major ridesharing/vanpooling programs which have developed and exist today.

Current NAVPO membership exceeds 440 companies or agencies -- the majority of the membership consists of companies who sponsor rideshare/ vanpool programs, but also includes local, state and Federal agencies, vendors offering equipment and services, others interested in furthering the benefits of ridesharing, and even individuals in the above categories.

Today, the association is international in scope -- nine Canadian members are on our roles and presentations have been requested and given to several foreign nations. Inquiries continue to be received from around the world.

Mr. Chairman, it is with great pleasure that I offer this testimony today. The history of ridesharing is rich with stories of uphill battles -- those dealing with elimination of barriers and restraints, and those of trying to convince the die-hard single occupant commuter that there really is a better way. The advent of S.239 provides a sorely needed vista of positive encouragement for both companies and individuals. Heretofore, the majority of efforts have come from the private sector; Senate Bill S.239 represents a significant step forward by the public sector.

When considering ridesharing as a whole, several factors need to be addressed -- unfortunately, some of the most significant factors are those stressed the least, if mentioned at all.

In recent tradition, ridesharing came to be associated primarily with energy conservation. The events of the past decade as related to dependency on foreign oil have resulted in a drastic impact on the American economy. Efforts to overturn the need to import to meet our demands through voluntary conservation have only been mildly successful. Ridesharing has played an important role in reducing gasoline consumption, but the potential savings has only been tapped. Gasoline consumption represents about 30% of the U.S. total petroleum demand according to a 1976 report by the Office of Technology Assessment. Ridesharing, by the simple fact of reducing the number of vehicles used for the daily commute trip by American workers (over one-third of total pasenger car usage) can significantly reduce the demand.

The bottom line, of course, is the reduction of the economic impact to our nation caused by the necessity to import to meet demands. However,

ridesharing goes much further than that. As important as energy use and demand are to this nation, ridesharing in itself presents many significant additional benefits to the economic aspects of our nation as a whole. For example:

* Ridesharing reduces air pollution since fewer vehicles are contaminating the environment.

* The efficiency and productivity of our Street and Highway Systems will increase as the number of vehicles are decreased through ridesharing. (According to an Office of Technology Assessment report, the degree of congestion on our highway systems can only be expected to continue to increase. Smaller cars alone won't solve the problem. Ridesharing is the answer which could reverse the projections.)

* The additional direct economic impact for both individuals and companies is truly significant and may well be the single factor not commonly addressed in proportion to its benefit in this time of economic stress.

- To an individual who participates in ridesharing, a direct and immediate increase in spending capability is realized as the result of the savings in the cost of the commute trip. The cost of owning and operating a single occupant vehicle (at the current recognized IRS rate of 22½ cents per mile) would be about $2700 for a worker who has a daily work trip of 50 miles (25 miles each way). Vanpools, on the average (before the most recent gasoline price hikes) cost a rider about 4¢ per mile. The direct comparison savings to ride in a vanpool would exceed $2200 per year -- an 11% increase in spending power to a $20,000 per year wage earner. If the figures from the 1980 Pocket Fact Book (Highway Users Federation) are used

(48.8¢ per mile driving alone; 5.7¢ for 10-occupant vanpool) the savings could exceed $5,000 per year for the participating wage earner.

- To the company which sponsors a ridesharing program, the economic impact can be a far-reaching management tool. Ridesharing can attract and broaden labor markets by making available commuter transportation at reasonable cost where none previously existed. Ridesharing can make parking areas (vacated by the reduction in the number of commuter vehicles) available for building expansion or other higher level usage -- this in fact could avoid a necessity to relocate due to company growth, or even allow growth which otherwise might be stymied by the economic impact of a relocation. The peer pressure of ridesharing can reduce tardiness and absenteeism; a more relaxed worker who has not had to fight the hassle and congestion of the rush hour commute (and who is not dreading the same end-of-day trip home) will be a more efficient and productive worker.

The time has come to consider the economic benefits of ridesharing to the individual participant, to the company who sponsors such programs, and the our nation as a whole, in a much broader sense than the obvious benefit of reduction of gasoline consumption.

Senate Bill S.239 is probably the most important step that the public sector can take at this time to encourage the growth and expansion of ridesharing. Its need is already overdue. Unfortunately, the advances in ridesharing over the past several years can be attributed to efforts of the private sector -- for the most part, companies have recognized the benefits and have on their own initiative (and with their own capital) organized and promoted programs which have proven very successful.

It is now time (and this bill offers the opportunity) for a strong public/private partnership to encourage all forms of ridesharing -- S.239 offers the forum for achieving that purpose. This bill is the mechanism which can foster a most worthwhile goal.

NAVPO wholeheartedly supports all titles of the proposed legislation. In particular, we commend the following aspects of the proposal:

* the expansion of tax incentives to individuals who purchase a highway commuter vehicle for ridesharing use. Previously, such tax incentives existed only for businesses. A 15% incentive ($1,800 on a $12,000 van for example) could make all the difference in the world to an individual who is considering the purchase of a vehicle to start a vanpool with his fellow-worker/neighbors.

* the clarification of certain ambiguity of current law relating to questions of taxable income to employees of transportation benefits made by employers; of accounting for administrative costs of ridesharing programs borne by employers; and of collection of fees received by individuals who drive/operate ridesharing arrangements. (Direct inquiries received by this office iicate this concern is one of the primary factors which discourage the start of many new programs).

* the increase of tax credits to a higher level for businesses purchasing or leasing ridesharing vehicles. With today's belt-tightening, this item alone may well be the decisive factor in a company's decision to implement/abandon plans for a sponsored program.

* The incentive aspects of Title IV may well be the most productive features of public efforts to date. No funds are required until action has been taken. This is a pure and simple incentive program

which should result in a significant impact on businesses to greatly encourage ridesharing in all its forms. Participation will be relatively easy to monitor -- periodic home to work travel surveys and/or parking lot occupancy checks will provide ready statistics.

* The restoration of gasoline tax deductions will serve to offset the increasing costs of motor vehicle fuel to the ridesharing participant and make the single occupant vehicle less attractive for an economic standpoint.

In total, the effect of this legislation will reduce the cost of commuting by ridesharing to the individual wage earner at all levels, and will provide significant economic benefits to companies who sponsor ridesharing programs. It will create a public/private sector degree of cooperation in support and encouragement of ridesharing. It will demonstrate, by the offering of straight forward incentives, the support of the Federal government of ridesharing as a whole, and the support of the efforts of the private sector in implementating ridesharing programs. It can be a stimulus with far reaching impact on many phases of the current American economy.

Mr. Chairman, on behalf of the National Association of Van Pool Operators, I strongly urge your positive consideration of Senate Bill S.239.

COMMUTER POOL

VANPOOLS
BUSPOOLS
RIDEMATCHING
FLEXIBLE WORKING HOURS
PARKING MANAGEMENT

STEERING COMMITTEE
District Administrator
Washington State
Department of Transportation
Public Works Director
City of Renton
Traffic Engineer
King County
Director of Public Works
City of Kirkland
Manager of
Transit Development
Metro
Transportation Engineer
City of Bellevue
Traffic Engineer
City of Seattle

February 19, 1981

The Honorable Robert Packwood
Finance Committee
U.S. Senate
2227 Senate Office Bldg.
Washington, DC 20510

Dear Senator Packwood:

This letter is offered as testimony in support of Senate Bill 239, the Commuter Energy Efficiency Act, and offered in support of an amendment to that legislation.

About the Writer

Seattle/King County Commuter Pool is a subregional ridesharing program serving the juriedictions in and around King County, Washington. The program started in 1974, and it includes: ridematch assistance, parking management, a public vanpool program, flexible work hours promotion, joint utilization of vans with social service agencies, technical assistance for individuals and for employer ridesharing programs, incentive development, informational services and marketing, and local regulatory reform efforts. Commuter Pool was cited in 1979 by the President as one of three national Showcase Ridesharing Programs featured at the inception of Initiatives in Ridesharing.

Conservation and Ridesharing

The transportation sector of this nation is extremely dependent upon petroleum fuels. The slight shortages of petroleum we have glimpsed in the last seven or eight years have awakened us to the grim reality that a deep and prolonged shortage could paralyze this country. Even slight shortages threaten to stifle the ability of our economy to grow and to remain vital.

Conservation, through the increased productivity of ridesharing, facilitates growth in a time of restricted fuel supply and dampens the paralyzing impacts of shortages. Ridesharing and mass transit utilization by commuters are, in large part, the keys to conservation in the transportation sector. Twenty percent or more of the commuting workforce currently rideshare. This participation is largely a result of success, at both state and national levels, in removing the legislative, regulatory, institutional, and attitudinal barriers--in both public and private sectors--which constrained ridesharing development throughout the 1970's. The challenge now before us is to involve more and more Americans, particularly employers, in voluntary conservation, by means of incentives.

SEATTLE/KING COUNTY
COMMUTER POOL
Arctic Building Room 600
704 Third Avenue
Seattle Washington 98104
(206) 625-4651

Need for Incentives

A fuel crisis or extreme price hikes would eventually force commuters to depend on ridesharing and mass transit, but more extensive utilization of ridesharing and mass transit now can postpone the painful and discriminatory price hikes, and possibly the crisis of shortage itself. Mandating ridesharing and mass transit utilization is out of the question. Even if obedience were assured, government could not afford to provide the capital and machinery to transport 100% of our workforce.

Private sector ridesharing utilizes the existing capital and vehicle infrastructure. Ridesharing is an example of people--employers and employees, individuals or organizations--combining efforts to solve their own transportation-energy problems. They do so without the burdens of regulation. They do so effectively, saving energy to benefit other Americans and eliminating the need for large government expenditures, hence tax burdens on other Americans.

Ridesharing is an ideal nongovernmental solution to a pressing problem. For the benefits which can be realized from the participation of more and more commuters in ridesharing, inducements to rideshare should be offered. The barriers to ridesharing have been removed. The remaining step needed to realize the full potential of ridesharing is to provide substantial incentives to sponsors and participants, and to market those incentives to the public.

The Incentives of S.B. 239

Everything contained in S.B. 239 provides or facilitates an important incentive to rideshare. Four points are addressed here, in order of special importance to Commuter Pool.

First, Section 201, Qualified Transportation Excluded From Gross Income, is of primary importance in this legislation. If the amount of any subsidy by an employer to an employee and the amount of any delivery cost of that subsidy is taxable income to the recipient employee, employers will balk at the added paper trail and accounting required to meet the requirements under existing tax laws. Would-be recipients of the subsidies will be reluctant to have these employer subsidies and delivery costs increase their personal income taxes. As a practical matter, marketing ridesharing to employers and employees is handicapped and constrained by the inclusion of these subsidies and delivery costs in the gross income of the recipient. Not only will the income exclusions of Section 201 provide a real, economic incentive for ridesharing and transit subsidies, but they remove a practical handicap to successful marketing efforts. It is further important that this section recognizes the importance of subsidies to all modes, and includes them, in order to have a broad and effective program.

Second, Title V - Gasoline Tax Deduction is a key incentive, from a reinforcement point of view. Each time a carpool or vanpool operator fills his tank, he will be reminded that part of that ever-growing gas bill will be refunded as a reward for his daily efforts to provide rides for others and to ease the consumption of that fuel. The dollar amount of the incentive may be small, but the psychological value is very high.

Third, Washington state has made extensive efforts to promote vanpools operated by individuals. Eighty percent of Washington's employers are "small businesses." Not all are by any means in a financial position to provide vanpools or other subsidies to their employees. Joint programs among small employers are being considered, but these require extra coordination. A large portion, then, of Washington's workforce must rely upon their own initiative to participate in ride-sharing. When an individual faces a $15,000 investment in a vanpool in these times of high interest, not only does an incentive seem an appropriate reward, it is quite a necessary requisite. When the solution to our energy-transportation problems is shifted smoothly to individuals in this manner, the maximum flexibility and independence will be achieved with the minimum of government intervention and cost.

Fourth, Section 303 excludes driver incentive mileage from the mileage considered under the "80/20" rule when determining qualification for the investment credit. This is a very positive step, but <u>it does not go far enough</u>.

The 80/20 rule should be eliminated completely, because: 1) it is a redundant safeguard, and 2) it causes inefficient utilization of capital and vehicles. The Treasury Department initiated the 80/20 rule to prevent a business from purchasing a van, claiming the commuter highway vehicle investment credit, and then utilizing the vehicle for business purposes.

So long as the vehicle is used for the required 3-year period to transport commuters according to the intent of the law, the auxiliary uses should be of no importance. If the auxiliary use is so substantial that the vehicle wears out prior to three years of commute use, the normal investment tax recapture provisions will recover the investment credit and act as a safeguard.

Without the 80/20 rule, the employer must show proper utilization of the vehicles by commuters. With the 80/20 rule, the employer must show, in addition, detailed mileage records and show that the vehicle spent a majority of its time sitting idle and depreciating. Not only does this result in a recordkeeping fiasco, but the inefficiency is repugnant to business.

The other sections of this legislation are also important. Respecting your committees time and important work, we reserve more detailed remarks on those sections. Please accept our thanks for this opportunity to share our operational experience and our opinions with you.

Sincerely,

William T. Roach
Program Manager

WTR:jvd

BELLEVUE, WASH., *February 17, 1981.*

Mr. BILL ROACH,
Manager, Seattle King County Commuter Pool,
Seattle, Wash.

DEAR BILL: I understand that you intend to send a package of support for S. 239 to the Senate Finance Committee. I would ask that you include this letter with your submittal.

This bill would be very effective in encouraging more people to switch from driving their own cars to carpools or vanpools. With the current amount of foreign oil imports, and the extremely vulnerable position this puts our Nation's economy and national security, we simply must do everything we can to reduce energy consumption. This bill would be an important step in that direction.

Specifically, the provisions to give a 15-percent tax credit to an indvidual who purchases a van for pooling and allowing an income tax deduction for State and Federal gas tax used in carpooling and vanpooling would give a significant incentive for persons to form carpools and vanpools.

The other portions of the bill which encourage businesses to provide incentives to employees are also effective ways to encourage more energy-efficient transportation.

In summary, I encourage Congress to pass this bill, as one step toward achieving our country's goal of energy independence.

Very truly yours,

DON TRANUM.

UNIVERSITY OF WASHINGTON
SEATTLE, WASHINGTON 98195

Office of the Vice President for Business and Finance

February 19, 1981

The Honorable Robert Packwood
Finance Committee
U.S. Senate
2227 Senate Office Building
Washington, D. C. 20510

Dear Senator Packwood:

University of Washington staff have reviewed S. 239 that would amend the Internal Revenue Code of 1954 to provide a credit against income tax for the purchase of a commuter vehicle, exclude from gross income certain amounts received in connection with ridesharing, and provide employers a tax credit for costs incurred in ridesharing programs.

The University is a tax exempt organization and, therefore, would not directly benefit as an institution from the tax incentives provided in S. 239. However, we do support the bill, especially the provision of tax incentives to employees to purchase vehicles for the purpose of ridesharing.

The University has operated a vanpool program since 1973. We have eleven vanpools in operation now, but our program has peeked as budget constraints do not allow further purchases of vans for this program; hence our particular interest in a measure that would encourage employee-owned vans.

The University of Washington supports incentives for ridesharing programs as is evidenced by our various alternative transportation programs. We wish to thank the members of Congress for their efforts on behalf of ridesharing and encourage the passage of S. 239.

Sincerely,

J. F. Ryan
Vice President for Business
and Finance

cc: Mr. William T. Roach, Program Manager
City of Seattle/King County Commuter Pool

306 Administration Building, AH-05 / Telephone: (206) 543-6410

American Land Development Association, 604 Solar Building, 1000 16th Street, N.W., Washington, D.C. 20036 Phone: (202) 659-4882

STATEMENT OF THE

AMERICAN LAND DEVELOPMENT ASSOCIATION

CONCERNING

S. 31, PERSONAL USE AND RENTAL OF HOMES

SUBMITTED TO THE

SENATE FINANCE SUBCOMMITTEE ON
TAXATION AND DEBT MANAGEMENT

MARCH 9, 1981

The American Land Development Association (ALDA) represents the recreational, resort and residential real estate development industry. Our member companies develop, build and sell second (vacation) homes, condominiums, destination resorts, recreational vehicle parks and campgrounds, retirement and new communities, mobile home parks, resort timesharing facilities and marinas.

The Association appreciates this opportunity to express its strong support for S. 31, introduced by Senator William Armstrong (R-CO), which among other things is aimed at clarifying the deductibility of expenses incurred by taxpayers in connection with their personal use and rental of residences. Our interest in this legislation concerns primarily its effect on "vacation homes" and stems not only from our role as developers of recreational/resort/residential properties, but also because our customers -- past, present and future -- are affected significantly by its provisions.

Rental to Family

In the regulations proposed by the Internal Revenue Service on August 7, 1980 (45 FR 52399), to implement the provisions of the Tax Reform Act of 1976, the taxpaying owner of a vacation home would be penalized severely if he rents his unit to his own relatives -- even if such rental is at fair market rental rates and the taxpayer himself never sets foot on the property during the tax year. Such an interpretation of the statute is absurd. We do not believe that the Congress intended that rental to a family member should be considered "personal use" by the taxpayer, but rental to a stranger is not, when rentals in both situations are at fair market rates. Section 1(b) of S. 31 would make it clear that rental to a relative at a fair market rate would not be considered "personal use" of the property by the taxpayer.

A potential problem area which S. 31 does not address is definition of the term "fair rental." Under the proposed regulations, for example, use of the residence by a third party at a discount is considered "personal use." Discounted rates are common at a destination resort (i.e., a resort with overnight accommodations). There are often group meetings scheduled at the facility, and tour packages are often sold through airlines, travel wholesalers, etc., using discounted rates. In the absence of any statutory provision to the contrary, a normal discount rate may not be considered by the IRS to be "fair rental." Unless a clear distinction is made (the present statute uses the language "under the facts and circumstances"), destination resorts will be subjected to an unfair competitive position by being unable to compete for normally discounted business. This in turn could reduce occupancy, thereby increasing the taxpayer/owner's tax shelter loss. To avoid this problem, the Subcommittee should consider making the statute clear that a discounted rate can be a "fair rental" rate, depending upon the facts and normal trade practices within the industry.

Use for Repair, Maintenance

S. 31, under Section 1(c), would clarify the Congress' intent with respect to the use of the vacation home by a taxpaying owner for repair and maintenance purposes. In its proposed regulations, the IRS took the position that the owner would be charged with a full day of "personal use" if others (e.g., family members, friends) who accompany him to the property do not join the owner in repair and maintenance activities. We do not believe the history of the repair and maintenance provision supports such a conclusion. This rule should be applied only to the taxpaying owner of the residence, not to others who may accompany him. Aside from the absurdity of the IRS position on this provision, we question how it

could possibly be enforced. Senator Armstrong's bill would solve this problem by making it clear in the statute that the owner would not be charged with "personal use" under the circumstances.

Application to Timesharing

As the national organization representing most of the nation's timesharing developers, we are compelled to comment on the application of Section 280A tax deductibility limitations on timesharing. In the first place, we are assuming that these provisions apply only to the ownership form of timesharing, where the timeshare is owned in fee simple, and not to the right-to-use form which is a non-ownership interest. Secondly, in the regulations proposed by the IRS, as well as in earlier testimony to the Subcommittee, some erroneous impressions concerning timesharing may have been made. The IRS' example of "... an arrangement under which each of twelve persons with interests in a unit is entitled to exercise control over the unit for one month during the taxable year..." is not typical of a timesharing arrangement. Most timesharing units are sold for 50 or 51 weeks per year (at least one week annually is reserved for repair and maintenance by the developer or managing entity). And, the great majority of timeshare purchases are for one or two-week intervals. The latest industry-wide study by our Resort Timesharing Council, based on a survey of nearly 10,000 purchasers, reveals that the average annual timeshare purchase is for 1.8 weeks. Thus, using these figures, the number of owners of a particular dwelling unit being timeshared is most likely to be about 28; but, in some rare instances, it could be as high as 50 or 51.

Earlier testimony also indicated that "(I)t is...common for taxpayers to purchase a time-sharing unit as an investment without any intent to utilize the unit for personal purposes during his ownership period or

any other time period." While that statement certainly is not untrue, it should be pointed out that our extensive survey reveals that an overwhelming majority (71.4 percent) of timeshare purchases are made because of the opportunity to exchange time at other resorts throughout the world. The second most frequently cited motivation for purchasing a timeshare was the opportunity to save money on future vacation costs (59.4 percent), with the investment or resale potential given by only 38.8 percent of those responding to the survey. Moreover, the survey shows that 62 percent of the purchasers already have used their own timeshare unit. When combined with the respondents who have not yet used their own unit but have taken advantage of the exchange privilege, it appears that about three-fourths of the purchasers already have used a timeshare unit of some kind. To say that it is common for purchasers not to intend to use their unit for personal purposes is not supported by our survey findings.

More important, however, is the position taken by the IRS in its proposed regulations: "each of the persons with an interest in the unit subject to the timesharing arrangements shall be considered to have a continuing interest in the unit regardless of the terms of the interest under local law." We concur with earlier testimony before the Subcommittee to the effect that the IRS apparently is saying that the tax deductibility limitations of Section 280A apply to the taxpaying timeshare owner if other timeshare unit owners violate the personal use limitations of Section 280A(d), even where the taxpayer makes no actual use of his unit and he does not stay in his unit at any other time of the tax year. Such a ruling is unfair and inequitable. It would be virtually impossible for the taxpayer to monitor the use of the unit by other taxpayers (they are usually unrelated and unknown to one another). To apply the Section 280A limitations to a taxpayer for the actions of strangers beyond his

control is unreasonable. It is important that the Congress give the IRS clear guidance in this unique area so that timeshare owners are not treated unfairly under these tax provisions.

Quick Action Needed

Finally, we urge the Subcommittee to act favorably and quickly upon this important legislation. The regulations, as proposed, would have delivered a severe blow to the recreational/resort real estate industry -- adversely affecting both developers and consumers alike. Despite a strong desire for vacation homes of all types to meet their recreation needs, many potential buyers would have found a vacation home economically unfeasible if these rules had been implemented as proposed. That in turn would have suppressed an already troubled industry as the ability to purchase is restricted to fewer and fewer persons. In addition, present second home owners -- i.e., those who purchased since 1975 -- suddenly would have found themselves ineligible for a tax loss and liable for thousands of dollars in additional out-of-pocket expenses. Moreover, present property values would have been adversely affected since one of the major advantages to second home ownership virtually would be eliminated.

Conclusion

While we realize that the Revenue Code amendments enacted in 1976 by the Congress were designed to establish new and more restrictive conditions for the deductibility of such expenses by taxpayers, we feel that the regulations as proposed were punitive in nature and far exceeded the intent of Congress. S. 31 would correct most of this misunderstanding and provide more clarity to the IRS in its rulemaking activities, and should be enacted as soon as possible.

Thank you for allowing us this opportunity to present our comments on this important legislation. The Association would be pleased to try to answer any questions the Subcommittee may have.

STATEMENT ON BEHALF OF ASA LIMITED
TO THE
SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT
COMMITTEE ON FINANCE
UNITED STATES SENATE
REGARDING
REVISIONS IN TAXATION OF FOREIGN INVESTMENT COMPANIES
S. 452
February 23, 1981

This statement is submitted on behalf of ASA Limited, a South African corporation whose corporate headquarters is located in Johannesburg. The company is a foreign investment company within the meaning of Section 1246 of the Internal Revenue Code. The stock of ASA is publicly traded on the New York Stock Exchange and almost all (if not all) of the stock is owned by U.S. citizens. No stock of the corporation is owned by South African citizens.

ASA supports S. 452. This bill would amend the provisions in the Internal Revenue Code concerning taxation of foreign investment companies to provide that gains derived by a corporation before it became a foreign investment company not be subject to the "recapture" provisions under Section 1246.

We are submitting this statement to recommend a further change in the law to extend the time in which a foreign investment company in existence in 1962 is allowed to make the election provided in Section 1247 not to be subject to the recapture provisions of Section 1246. The cut-off date for the election now in the law is December 31, 1962.

BACKGROUND

In the 1950's, Congress became concerned that foreign investment companies controlled by U.S. shareholders were being used as a device to avoid U.S. income

taxes. The income of these companies was not subject to U.S. taxation and the companies generally did not pay dividends to their U.S. shareholders which could be taxed. Taxes could be imposed only when the U.S. shareholders sold their stock, and then only at capital gains rates. To correct this situation, Congress added Sections 1246 and 1247 to the Code in 1962. Section 1246 provided that upon the sale of stock in a foreign investment company, the shareholder had to report as ordinary income that portion of his gain attributable to earnings and profits of the company accumulated after 1962.

Section 1247 provided the shareholders an exemption from Section 1246 if the foreign investment company had elected to distribute 90 percent of its income currently to its shareholders in each taxable year after December 31, 1962. If an election has been made, the shareholder is taxed at ordinary rates on dividends received and obtains full capital gain treatment on the sale of his stock. However, Section 1247 provided that the election had to be made before January 1, 1963.

The shareholders of ASA Limited voted, by a narrow margin, not to make the election but to remain subject to the "recapture" provisions of Section 1246 on the sale of stock by shareholders. At that time, a very substantial portion of stock was owned by nonresident aliens. However, at the present time, very little (if any) stock is owned by nonresident aliens.

RECOMMENDED AMENDMENT

We propose that Section 1247 be amended to allow a foreign investment company in existence in 1962 to make the election at any time. However, if an election is made after 1962, the shareholders would be required to continue to treat gain from the sale of stock as ordinary income to the extent it represents earnings accumulated after 1962 but prior to the time the election is made. (The suggested statutory change is attached as Exhibit "A".)

REASONS FOR THE AMENDMENT

The late Doctor Lawrence N. Woodworth, then Chief of Staff of the Joint Committee on Taxation, stated in a 1973 letter to Senator Wallace Bennett that there was no reason why a foreign investment company in existence prior to 1963 should not be allowed to make the election after December 31, 1962, so long as the shareholders were required to pay the same tax they would have been required to pay if a timely election had been made. Our proposed amendment is consistent with Doctor Woodworth's position.

There appears to be no policy reason for not permitting a foreign investment company to make the election at present, so long as its shareholders would be required to recognize as ordinary income all of the post-1962 income of the company (either when distributed or upon sale of the stock or some at each time). The legislative history of Section 1247 indicates no particular reason for selecting December 31, 1962 as the cut-off date for the election to currently distribute earnings. It seems unfair to refuse to allow a company the opportunity to avail itself of the election based on today's circumstances simply because the company chose not to make the election based upon the circumstances in 1962. The circumstances, and the shareholders, have changed since then.

Allowing the few companies which are subject to the recapture provision of Section 1246 to now make the election should also be an administrative improvement to the tax laws. While ASA informs its shareholders each year of the amount subject to "recapture" if stock is sold, the company has no way of knowing whether the shareholders understand the law and comply with it. It is also doubtful whether the IRS is able to adequately audit compliance with the law. In fact, the compliance problem is further complicated by the fact that the regulations on determining the "ratable share" of taxable income to be allocated to each shareholder, which the statute directed the Treasury Secretary to issue, have never been proposed —much less finalized.

Assuming there has been a reasonable degree of compliance with the law, a significant percentage of the previously undistributed income appears to have been subject to recapture under Section 1246. Over the four-year period including 1976 through 1979, some 3.38 million shares of ASA were traded out of the 9.6 million shares outstanding during that period — or about 35 percent of the total outstanding. Also, from November 1963 through the end of 1971 over 80 percent of the shares held by substantial individual record holders (2,000 or more shares each) had changed hands. Admittedly, it is not possible to determine what percentage of the total undistributed income has been subject to tax under Section 1246 since it is impossible to determine which shares were traded more than once and which have not been traded at all.

Furthermore, since ASA has been currently distributing over 90 percent of its taxable income, it seems unfair to treat ASA in a less favorable manner than other investment companies merely because of its failure to make an election many years ago. This is especially true since under the proposed amendment ASA's shareholders will not be able to avoid ordinary income taxation for gain attributable to undistributed taxable income from years prior to the effective date of the proposal.

Finally, there should be little or no revenue loss to the Treasury — in fact, there could be a revenue gain since ASA and any other company which makes the election is required to distribute at least 90 percent of taxable income to the shareholders who will in turn have to pay tax currently on dividends at ordinary income rates. This will increase tax revenues to the extent the dividends are greater than they would be if no election were made. Presently, the tax on any income that is not distributed to the shareholders is deferred until the stock is sold. Furthermore, requiring distribution of income to U.S. shareholders will produce favorable balance of payments results since the income is otherwise held abroad.

EXHIBIT "A"

AMENDMENT

Amend paragraph (1) of Section 1247(a) as follows:

1. Strike the words following "1246(b)(1)" and before the comma preceding the word "to" and insert in lieu thereof "and was in existence on September 31, 1962 elects (in the manner provided in regulations provided by the Secretary) with respect to each taxable year beginning after such election".

2. Strike everything after the comma following the word "section" in subparagraph (C) and insert in lieu thereof "then section 1246 shall not apply with respect to any qualified shareholder's ratable share of the earnings and profits of such foreign investment company accumulated during any taxable year to which such election applies."

STATEMENT OF

THE CONTINENTAL GROUP, INC.

BEFORE

THE SUBCOMMITTEE ON SAVINGS, PENSIONS AND INVESTMENT POLICY

OF THE

SENATE COMMITTEE ON FINANCE

REGARDING DEDUCTIBLE CONTRIBUTIONS FOR RETIREMENT SAVINGS

As a company with thousands of men and women worldwide working in packaging, energy, natural resources and financial services, The Continental Group is acutely aware of the persistent problems surrounding the maintenance of adequate retirement income for its employees. There are presently approximately 13,000 living U. S. Continental retirees and that number is expected to increase by 600 retirees annually over the next several years. In the neighborhood of 40,000 U. S. Continental employees are currently covered by the Company's pension plan. Thus, Continental is continuously interested in the nature of retirement income both for Company employees and for American workers as a whole.

Today maintenance of adequate retirement income is beset by serious and growing problems. Income for retirees is derived primarily from three sources: Social Security benefits,

company pensions, and individual savings. The gloomy forecast for proper maintenance of the Social Security system is well known to all members of this Subcommittee. Continental and other companies, large and small, can attest to the enormous expense of their pension plans and the likelihood that this expense will increase dramatically in coming years. In addition, our country's current relatively low savings rate would indicate that individual retirement savings plans will not make a significant contribution to retirement incomes unless Congress quickly and effectively acts to provide financial incentives for such savings.

The Continental Group views this situation with real concern, and urges Congress to support a general system of tax deductible retirement savings. We see this as the most promising avenue for relieving some of the pressure on the beleaguered Social Security system and for inducing economic self-reliance and individual savings. Continental applauds the initiatives underway in Congress, particularly the Employee Retirement Savings Contribution Act (H.R. 2207) which would allow employees covered by qualified retirement plans to deduct retirement savings contributions to those plans or to individual retirement accounts (IRAs).

This approach seems an eminently reasonable means to encourage employees to plan for their retirement security. The measure would also go a long way in improving investment generally. Funds placed in individual and group tax-deferred retirement savings programs become part of the pool of much needed capital available for long term investments. Thus deductible retirement savings measures would serve three crucial functions that Continental deems absolutely necessary in coming years:

a) Increasing employee retirement security;

b) Providing real economic incentive to Americans to save more, creating a larger capital pool for the home mortgage market and business investment, while easing inflationary pressure; and

c) Releving pressure on the Social Security system.

The Company would particularly like to bring to the Subcommittee's attention two aspects of any deductible retirement savings bill:

First, it is essential that the legislative proposal in this area be clear and straightforward. To have a good chance of commanding participation and ultimately raising the level of U. S. savings, a deductible retirement savings contri-

bution bill must be readily comprehensible to those who will decide its practical effect: the employees themselves. Continental stresses the need for a streamlined bill, promptly enacted, which applies in clear terms, common standards for deductions both to IRAs and qualified plans.

Secondly, it is important that employers should not be required to accept employee contributions or to amend existing plans to accommodate deductible employee contributions. Some employers may not be capable of adequately administering such a plan to the greatest benefit of their employees either because of a lack of expertise or because of an inability to absorb additional administrative costs. Requiring such employers to accept these contributions would not be in the interest of either employers or employees. In these cases, the option of equivalent tax deductible contributions to IRAs would effectively serve the same purpose.

As previously stated, Continental takes the position that deductible retirement savings contributions, if based on thoughtful and clear legislation, are the most efficient and effective means to encourage employee self-reliance and lessen pressure on the Social Security system. At the same time, it would encourage an increase in the level of savings in America and add to the capital investment pool

which is so crucial to U. S. economic progress. The Continental Group urges the Congress to give every consideration to measures designed to further deductible retirement savings, both for the future welfare of American workers and for the long term health of the American economy.

JCD:MC
3/9/81

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